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CITY OF WOODINVILLE

REPORT AND DECISION

OCT 14 2004

CITY OF WOODINVILLE
PLANNING DEPARTMENT

CASE NO.: TEMPORARY USE PERMIT NUMBER TUP2004-073

PROPERTY OWNER: City of Woodinville
17301 – 133rd Avenue NE
Woodinville, WA 98072

PROJECT ORGANIZER: Seattle Housing and Resource Effort (SHARE)
Women's Housing, Equality and Enhancement League (WHEEL)
PO Box 2548
Seattle, WA 98111

PROJECT SPONSOR: Northshore United Church of Christ
Dennis Lone, Moderator
Amy Spencer, Clerk
Paul Forman, Minister
18900 – 168th Avenue NE
Woodinville, WA 98072

SUMMARY OF REQUEST:

Applicant requests a Temporary Use Permit (TUP) to locate Tent City 4 from City of Woodinville property at 17834 – 134th Avenue Northeast for a period not to exceed 60 days or for a total stay of 100 days.

SUMMARY OF DECISION:

Request granted at public hearing.
Request denied as it relates to SEPA appeal.

PUBLIC HEARING:

After reviewing City of Woodinville 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 September 30, 2004, at 7:00 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 NO.	EXHIBIT NAME
1	Staff Report
2	Application for a Temporary Use Permit (TUP 2004-072)
3	Temporary Use Permit Checklist
4	SHAREWHEEL Narrative for Tent City 4
5	Letter of Complete Application dated August 12, 2004
6	SEPA Determination of Non-significance (DNS) SEP 2004-073
7	SEPA Checklist
8	Environmental Checklist for SEP 2004-073
9	Vicinity Map
10	Topography Map of Tent City 4
11	Aerial Photo of Tent City 4 Site
12	Aerial Photo of Tent City 4 Vicinity
13	Aerial Photo with Contour Overlay of Tent City 4 Site
14	Tent City 4 Site Plan
15	Notice of Application and Public Hearing
16	Affidavit of Posting of Site
17	Published Notice of Application and Public Hearing
18	List of Property Owners within 500 feet of Site
19	Map of Property Owners within 500 feet of Site
20	Signed Control Notice for TUP2004-072
21	Letter Withdrawing Tent City 4 Application TUP2004-066
22	SHARE/WHEEL Tent City 4 Code of Conduct
23	Letters Received from the Public as of the Application Date (August 12, 2004)
	A. Bret & Julia Stewart (17718 NE 204 th 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 Zeutschel
	K. Jack Vermeulen (3)
	L. Michael Stickney
	M. Susan Boundary-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
	W. Judy Schnebele
	X. westfamily@comcast.net
	Y. Dollie Kosters (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 [templeman@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
24	City of Woodinville Emergency Ordinance No. 369
25	Temporary Property Use Agreement
26	Ordinance Number 370
27	Ordinance Number 371
28	SEPA Determination SEP2004-075
29	<i>SEPA Determination SEP2004-076</i>
30	<i>SEPA Determination SEP2004-077</i>
31	Environmental Checklist SEA2004-075
32	Environmental Checklist SEA2004-076
33	Environmental Checklist SEA2004-077
34	Appeal to SEA2004-073 dated August 31, 2004

35	Ordinance 372
36	Addendum 1 to Temporary Use Agreement
37	Code Enforcement Inspection Reports, 8/20/04 to 9/22/04
38	Interlocal Agreement between the City of Woodinville & King County for road maintenance services, including August 2004 work schedule
39	Steward & Associates Wetland Delineation memo, Aug. 19, 2004
40	Site photographs dated Sept. 27, 2004
41	Public Safety Weekly Reports
42	Site photographs dated Sept. 30, 2004
43	Memorandum from City Clerk from Gendler & Mann, LLP
44	Steven Pyeatt request to have Dissenting Report, Citizens Advisory Commission on Homeless Encampments
45	Letter from Davis Write Tremaine, LLP
46	Letter dated 9/29/04 from Gendler & Mann re: SEPA Appeal & TUP hearing
47	Declaration of Al Dykes – for 9/10/04 hearing in Superior Court
48	Declaration of Jack Vermeulen – for 9/10/04 hearing in Superior Court
49	Declaration of Michael Gendler for 9/10/04 hearing in Superior Court
50	Letter from Margaret Fleishman to Ray Sturtz, dated 9/30/04
51	Tent City Code of Conduct
52	Wheel/Church of Mary Magdaline, Women in Black List of the Dead 2003
53	Declaration of Tent City 4 Residents (Bailes, DeWolf, Blumberg & O'Shea Att C
54	Declaration of Tent City Residents
55	Letter from Bonnie Battles dated 6/16/04 with attachments
56	Info regarding how Tent City works.
57	ShareWheel Tent City 4 Code of Conduct
58	Letter from Myra Van Vactor to Woodinville City Hall, dated 9/30/04
59	Tent City 4 Chronology
60	Calendar of Churches that assist Tent City
61	Email from Mimi Johnson, dated 9/30/04
62	Email from John Nashem to Mary Miller dated 9/30/04
63	Letter from Tara Spain
64	Copy of Testimony 9/30/04 re: TUP Application
65	List of laundry drivers for Tent City as of Sept. 1, 2004
66	Letter from Debby Adams, Branch Manager Labor Ready, Woodinville
67	Letter from Jack Vermeulen, dated 9/30/04 re: City of Woodinville Staff Report
68	Letter from Jack Vermeulen, dated 9/30/04 re: SEPA comments
69	Photo of Tent City site, submitted by city staff
70	Photo of Tent City site, submitted by city staff
71	Photo of Tent City site, submitted by city staff
72	Photo of Tent City site, submitted by city staff

73	Photo of Tent City site, submitted by city staff
74	Photo of Tent City site, submitted by city staff
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78	Photo of Tent City site, submitted by city staff
79	Photo of Tent City site, submitted by city staff
80	Photo of Tent City site, submitted by city staff
81	Photo of Tent City site, submitted by city staff
82	Photo of Tent City site, submitted by city staff
83	Photo of Tent City site, submitted by city staff
84	Testimony before HE, 9/30/04; submitted by Scott St. Clair, with Attachments
85	Restrictions for Tent City 4, Mike Stickney
86	Letter from Emma Dixon to HE, re: TUP
87	NOT USED
88	Letter re: 'Significant Odds & Ends', from Scott Morrow, SHARE Mens Organizer
89	Letter from Steven Pyeatt
90	Letter from Alfred Taylor dated 9/30/04 to HE
91	Copy of Letter dated 8/10/04 from Karen A. Forys to Council Members
92	Additional Conditions for TUP 2004-072
93	Copy of Application for Temp Use Permit
94	Copy of Cit of Woodinville Notice of Public Hearing for TUP 2004-072
95	NPR News report re: Tuberculosis in King County
96	Notes submitted by Rosemary Zeutschel regarding police reports and Code
97	Memo dated 9/30/04 from Janet Groak to Ray Sturtz with attachments

Appearing was RAY STURTZ who is the planning director for the City of Woodinville. He presented the City of Woodinville Staff Report. His background was discussed. He has been working as a SEPA official for 11 years. He has visited this site numerous times. The applicant is requesting a temporary use permit to allow Tent City 4 to locate on city owned property located at 17834 – 134th Avenue Northeast. The issues before the Hearing Examiner today are whether or not this proposal satisfies the requirements for a temporary use permit and making a decision on the appeal filed by Woodinville Business Center No. 1 regarding the SEPA determination that was issued on August 16, 2004. A Determination of Non-Significance was the threshold determination. There may be issues brought up about procedure and whether it was done properly, but the scope of this proceeding is limited to the two issues. Tent City 4 has been located on this property for 48 days. Tent City 4 had moved from the Bothell, Washington location to the vacant city property on August 14, 2004. There were several emergency ordinances that were adopted that allowed this to happen prior to a temporary use permit being granted. Tent City 4 is a temporary housing encampment for up to 100 persons. It 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 personal attack. SHARE/WHEEL is the organization responsible for setting up the tent cities. Tent City 4 is also sponsored by Northshore United Church of Christ. The church provides food and other conveniences to assist in the daily life of Tent City 4 residents. The tent cities do not stay at places for more than 90 days, thus they had to move from the Bothell location to another location. Tent City 4 will have to move from this location to another location after 90 days. To the west of this proposal is an automobile storage yard, to the south is Little Bear Creek and Woodinville Business Park, to the east is vacant area, and to the north is SR 522. There are single family residences north of SR 522. There is, of course, noise associated with SR 522, but this particular use would not add any significant noise. Woodinville Municipal Code (WMC) Chapter 21.44.030 states the four criteria that must be satisfied before an applicant can be granted a temporary use permit. There will be testimony from various other city representatives and the public regarding these particular criteria. The specific criteria is (1) the proposed temporary use will not be material 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 offstreet 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. This is an ideal area for a tent city. It is shielded from other property owners and is located adjacent to the commercial/industrial zone. There are not the same potential problems that would occur if this were in a residential area. The response to the SEPA appeal is contained within the staff report. Each of the issues brought up by the appellant are discussed at length and will be discussed by other city representatives that will be called to testify. All 26 appeal issues were discussed. The city's position is that Tent City 4 application should be approved and the SEPA appeal should be denied.

Appearing was PETE ROSE who is the City of Woodinville's City Manager. He discussed his extensive background. There were issues regarding Tent City 4 that were very concerning to the city when the proposed location was in a relatively residential and rural area. That is why Tent City 4 was moved to its current proposed location. The city has agreed to allow the use on city property. The property is designated as park area. It will be improved in the future. It has been legal for the city to allow Tent City 4 to be on the property pending a Temporary Use Permit because emergency ordinances were passed by the city. These have been challenged in court by Woodinville Business Center #1, but the challenges have been denied. The city does have authority to adopt emergency ordinances. The city negotiated with SHARE/WHEEL and reached an agreement on August 26, 2004. This was allowed pursuant to an ordinance passed by the city. The key issue for the city is to protect the environment. He believes that SHARE/WHEEL is also in the business of protecting the environment. Part of the agreement that the city has reached with SHARE/WHEEL is to have full inspection rights to make sure that the proposed use is satisfying all of the conditions. The city has agreed to put in temporary utilities. There is fresh water for showers. There are five porta-potty facilities. There is a dumpster located on the west side of the park site. There is a temporary gray water line that enters into a sewer man hole. This allows water from the shower and sinks to be

adequately disposed of. Most of the conditions that Bothell required are also requirements of this proposal. He discussed the specific objection numbers 4, 5, 21, 24, and 25 outlined in the SEPA appeal. He does not believe that this sets a precedent for future homeless encampments or sets a precedent for use on this property. Obviously this property is designated as park use and will be used as a park. This is a very specific use for this particular time at this particular location and will not set a precedent. Language in the agreement with SHARE/WHEEL states that the city does not endorse tent cities, nor will the agreement set a precedent for future encampments. The city also did not abuse its authority to enact emergency ordinances. The city has legal authority to enact these emergency ordinances. This authority has been affirmed by courts. The hearing examiner does not have jurisdiction on that issue. This use is for a particular amount of time. It certainly does not set a precedent for long term use or encourage time sprawl. The city has had a significant amount of requests for records to be made available. They have complied.

Appearing was JASON BURT who is the Code Enforcement Officer for the City of Woodinville. He has been the inspector for this particular proposal. He has been to the site many times. The latest actually being today. He submitted his inspection reports. His inspections have not revealed any violations. They were entered in the record as exhibit number 37. He has gathered information from other cities that have housed tent cities. He has met with the Bothell representatives and they indicated that there were no significant impacts when Tent City 4 was located in Bothell. He himself has not seen any adverse effects related to Tent City 4. The city anticipated potential concerns regarding Tent City 4 and set up weekly business meetings. He spoke with members of the public, but there were no business representatives in attendance in the scheduled August 20 and August 27th meetings. Subsequent to these meetings, he has spoken to 20 businesses surrounding the site and no one has raised issues of adverse impacts. He does not believe that there are any aesthetic impacts to this proposal. The proposal is screened by trees and vegetation that are abundant along Little Bear Creek. The neighboring property owners are a significant distance away from the use and are screened adequately. There are only five vehicles allowed to be parked at the area, thus traffic impacts are minimal. There is also SR 522 that borders the site to the west which again provides a natural boundary. He has looked to see if Little Bear Creek has been affected by this use and it simply has not been. There is a fence placed 100 feet from the creek. There has been no siltation. He has done 2-3 inspections per week. There has been temporary fencing put up that further protects Little Bear Creek. He personally described the utility work that was done within the 134th Avenue NE right-of-way. There was no evidence of siltation or runoff that reached the creek.

Appearing was BRIAN MEYER who is the City of Woodinville Park Maintenance Supervisor. He has been in this position since March of 1998. He is responsible for the maintenance of the parks in the city. He has visited the site numerous times, approximately 1-2 times per week. He submitted many photographs that he has taken which were admitted into the record as Exhibit 42. His pictures show the site and the fencing that was already on site and the temporary fencing that has been put up to ensure

that this use does not affect Little Bear Creek. He also addressed many of the SEPA issues brought up in the appeal. He certainly has looked at the environmental impacts of this use. There have been many field inspections made by SEPA officials. A wetland specialist has visited the site. The wetland specialist determined where the wetland and buffer were located to ensure that no "use" was within this area. He himself has not personally seen any affects on the area as a result of Tent City 4. This is especially true of Little Bear Creek. There is no significant construction. The fences are to make sure that Little Bear Creek will not be disturbed and to make sure that there is no effect on the fish, wildlife, or any other endangered species. The city has also put in a temporary sewer line that takes the gray water from the hand washing facility and shower facility and puts it into the sanitary sewer manhole. He has talked to Dustin Hinson at Steward & Associates about the effects of this use on the wetland and there do not appear to be any. Dustin Hinson is the individual who prepared the wetland delineation for the City of Woodinville. This has been attached as Exhibit 39.

Appearing was NICK MONK who is the City of Woodinville Director of Public Works. He gave his background which included a background in civil engineering. There has not been a significant modification to the park land. This is a vacant undeveloped parcel that will be used for future park use, but is not being used for anything at the current time. He has the primary responsibility to oversee the utility needs of Tent City. A one inch line was put in for potable water and a sewer line was installed ensuring that Little Bear Creek will not be affected. The work that was done on the road and the installation of the utilities is exempt from SEPA review according to WAC 197-11-800. The sanitation facilities are adequate. There has not been any showing of any contaminants entering Little Bear Creek.

Appearing was YOSHITO MONSAKI who is the surface water engineer for the City of Woodinville. He has been the engineer since 1999. He has 17 years of engineering experience. He has made visits to the proposed site on multiple occasions. He addressed several of the SEPA appeal issues. He is not aware of any impacts caused by the tent city site to Little Bear Creek, including those related to the environment, water quality and the salmon that use the creek. The buffer has been identified and fenced. The tent city residents are aware of the sensitive area. As a condition of allowing the temporary use permit, the residents are not allowed to go within the buffer zone. There is a garbage dumpster on site, porta-potties, a shower and a hand washing sink. The site is kept clean. A gravel path was installed to identify walk areas and limit disturbance. He has not observed any water quality violations or any activity that would hurt salmon.

Appearing was VALARIE JARBAY who is the public works maintenance supervisor for the City of Woodinville. She is responsible for supervising maintenance and repair of the city streets, right of ways and surface water systems. She gave her background. She addressed issue number 12 of the SEPA appeal. She has visited the site numerous times. The work performed for Tent City 4 was only minor alterations as a result of the utility installation. This work is category exempt from the SEPA threshold determination. Only 83 cubic yards of rock were used which is under the 100 cubic yard threshold. There was installation of a water line and wastewater utility lines, but these were entirely within the

right of way. There was already silt fencing in place before any work was done at the site. After examining the fence, it was determined that no further silt fencing was necessary. It was determined that the installation work could be done without impacting Little Bear Creek. The roadway had raised areas on each side of it which prevented dirt and silt from entering the creek. No contamination occurred as a result of the work. There was ordinary maintenance done on 134th Avenue NE. The city contracts with King County to provide this maintenance. It had not been re-graveled in 5 ½ years. The condition of the road had deteriorated, thus King County re-graveled the road. She did reiterate that all work performed was categorically exempt from a SEPA threshold determination.

Appearing was WALLY HOLSTED who is the Fire Marshall for the City of Woodinville. He has been employed by the Woodinville Fire Department for the last 21 years. He gave his background. He has visited the site numerous times and has implemented conditions that have been accepted by SHARE/WHEEL and would be conditions of approval for the temporary use permit. These conditions incorporate those stated in the Washington Administrative Code and the City of Woodinville ordinances. The fire department has typically had two inspections per week on the property to make sure that all requirements are being followed. The conditions that the fire department is concerned about relate to access for emergency vehicles, designated smoking areas, and a setback from combustible vegetation. There have been six calls made to the Fire Department out to the site. All of them had to do with emergency medical services. This constitutes 2.4% of the total number of calls to the district.

Appearing was SERGEANT SCOTT STRATHEY who is the patrol supervisor for Woodinville Police Department. He addressed specific SEPA appeal concerns number 2 and number 23. These appeal items concern the public safety effects of Tent City 4. The police Department has kept a spreadsheet detailing all of the contacts that the department has had at Tent City 4. There have been 117 contacts in the past 46 days. 103 of these contacts have been officer initiated contacts. These are mainly routine in nature. The Department has attempted to keep a high visibility in and around the camp. The other 14 contacts were not officer initiated contacts. They were either from members of tent city or neighboring citizens phoning in concerns. There have been four physical arrests and bookings. One was for a drug violation, one was for a warrant, one was for violation of a restraining order, and one was for an assault. It is his understanding that all of these people are banned from going to Tent City 4. None of these arrests have involved victimization of a Woodinville resident. There has not been an increase in criminal activity in the neighborhood. There has only been 14 calls in 46 days. The only affect is the time spent going to Tent City 4 an average of 2.5 times per day. The police could be sent to other areas. Overall, from a law enforcement perspective, the concerns about tent city creating a substantial impact on the surrounding vicinity are not founded.

Appearing was MARIE STAKE who is the communications coordinator for the City of Woodinville. She has served in that position for eight years. Her sole reason for testifying is to authenticate the 19 photographs that were entered as Exhibit 40.

Reappearing was RAY STURTZ who summarized the city's position. He desires that the Examiner approve the request with the conditions stated in the Staff Report. The only change he would like made is the replacement of condition D2 on page 20 of Exhibit 1 with section 8E of the Temporary Property Use Agreement in Exhibit 25. The city also desires that the Examiner deny the SEPA appeal.

Appearing was PAUL FOREMAN who is the pastor at Northshore United Church of Christ. He has been the pastor since 1990. He is one of the applicant's on behalf of the church who is in favor of the temporary use permit. SHARE/WHEEL is the actual operator of the tent shelter. He has been at the camp almost everyday since its inception approximately 46 days ago. He also visited the site when it was in Bothell along with the Tent City 3 site in Seattle. He wanted to make it clear that there is no activity within the 100 foot buffer area of Little Bear Creek. They only cut some knee high grass and some blackberry bushes. The crushed rock that was put on the property is in accordance with future plans of the park. SHARE/WHEEL approached his church about sponsoring Tent City 4. They had already been to four other area churches. By the time they came to him, 66 of the 90 days that they were allowed to stay in Bothell had expired. This whole process needed to be done quickly. It took his church an additional 10 days to agree to sponsor Tent City 4. They only did this after talking to county officials and other former hosts of Tent Cities. They held two meetings to inform neighbors and city officials about what they were going to do. He commends the city in finding a better site than the church site. It is closer to services that would be available for the residences such as busses, laundry, employment centers, groceries, etc. Tent City 4 is not a permanent solution to the problem of homelessness. It does provide affordable housing to a certain segment of the homeless population that is willing to live in a well disciplined community. He does not believe that the camp will affect any aspect of the Woodinville community life. It actually will help because it will allow organizations to work together. Any camp noise will be minimal in relation to its location. It is in a semi-industrial area adjacent to SR 522. The camp is visually and physically buffered. Parking is very limited. There are over 40 churches, businesses and organizations helping to support the camp.

Appearing was TRACY SHALLBETTER who is an attorney at Davis, Wright, Tremaine. She is here on behalf of SHARE/WHEEL. She will leave the substance of comments to the many residents of Tent City 4 who are in the audience. She confirmed that a letter from Davis, Wright, Tremaine was submitted into the record. She believes that the city of Woodinville did a thorough job in their presentation. She concurs with their request that the permit application be approved and that the SEPA appeal be denied. Woodinville Business Center are the appellants and they have the burden to show that the SEPA threshold determination was improper.

Appearing was DAVID MANN who is the representative from the Woodinville Business Center No. 1. They are the SEPA appellants. He submitted his arguments in writing and they were entered as an Exhibit. He believes that the whole SEPA appeal process has been a mockery. There is nothing that the Examiner can do because the city, by emergency ordinances, has given the city manager authority to keep the agreement with

SHARE/WHEEL for a 100 day period. This was done under the city's emergency authority. Even if the Examiner ruled in his favor, nothing would change. He is here because he believes that there have been serious violations of process. These violations are very important. These things need to be taken into account when making a decision. SHARE/WHEEL has been a problem in the past. They have threatened to occupy land unless given authority from King County. They have done this repeatedly and did this at the Bothell site. They also did it here at the City of Woodinville. The City of Woodinville has passed various emergency ordinances to allow SHARE/WHEEL to occupy the site. He briefly stated what went on in this process, but asked the Examiner look at the written material rather than him going over it verbally. The city has continued to approve SHARE/WHEEL using this site despite setting certain deadlines and the deadlines not being followed. The city has done this using its emergency ordinance authority. He believes that the city has ignored the precedence that this string of emergency ordinances will set. The city says that they do not need to look at the precedence, but actually they do according to the applicable Washington Administrative Code sections. The city also says that the time sprawl will not occur. It already has occurred. When hard limits have been set by the city, they have only been circumvented. The city does whatever they want including changing the rules by enacting emergency ordinances when it suits them. He is very concerned about what is going to happen in the future with other projects. Once one starts down the slippery slope, it is difficult to stop. There are impacts of this proposal on public safety. The city staff states that this is not subject to environmental review, but RCW 43.21C.020 states very clearly that the purpose of SEPA is protect public safety. The written materials outline this argument. Two of the four arrests made have taken place on the Woodinville Business Center property. The city did not adequately look at other alternatives. It is this after the fact analysis that is a problem. He disagrees with the statements made by city representatives that the improvements done on the site and the roads are exempt from SEPA review. The RCW is clear in that if environmental review is needed on an entire project, then individual portions of that project cannot be exempt. He then discussed the temporary use permit criteria. The Examiner does not have the authority to issue a permit that lasts longer than October 13, 2004. Woodinville Municipal Code 21.32.120(2) states that a temporary use shall not exceed a total of 60 days. The section does not state the word "permit". The other provisions within the code section refer to the temporary use permit, but subsection 2 does not refer to the permit which means that the maximum amount of time that the temporary use can exist is 60 days. The temporary use was established on August 14, thus 60 days from that date is October 13. The city did not amend Woodinville Municipal Code 21.32.120(2) when enacting the emergency ordinances.

Appearing was MARGARET FLEISHMAN who is in favor of the temporary use permit. She wrote a letter that was entered into the record as Exhibit number 50. She believes that tent cities are a way to deal with the problem of homelessness in King County. The community has a responsibility to help those among us that are in need. She desires that the Woodinville community invite businesses and individuals to work together to find genuine solutions to the homelessness problem. The group Citizens For Fair Process are missing the point. Temporary solutions to homelessness are necessary. She agrees that long term

solutions need to be explored, but helping people now is the right thing to do.

Appearing was LISA CURE who is the camp services liaison and a resident of Tent City 4. She went over the code of conduct requirements for all residents of Tent City 4. She read the specific code of conduct requirements into the record. This was also given in documentation form which was entered as Exhibit 51.

Appearing was SUSAN RODRIGUEZ who is a Tent City 4 resident. She does not believe that she has ever had a complaint from the City of Woodinville regarding any resident breaking the code of conduct rules. Certainly the residents are not perfect, but everyone in the camp holds individuals accountable for their behavior. If people do break the code of conduct rules, then they are barred or given extra security duties depending on the situation.

Appearing was RENEE DeWOLF who is a current resident of Tent City 4. She gave a brief reason why Tent City 4 is necessary. For the residents, it is a meaning of life or death. There are approximately 8,000 homeless people in the King County area alone. There have been 16 deaths this year. There were 38 deaths last year of people living outside on the streets. The possibility of being raped or murdered is real and is an every day occurrence. She does not know where she would go if Tent City 4 was not allowed to remain in its location. She entered into the record declarations from other residents of Tent City 4 along with a list of homeless that have died.

Appearing was CAROLYN HART who is a resident of Tent City 4. She would be on the street if it weren't for Tent City 4. The encampment provides for a safe and healthy environment to live. It would not be the same if she was on the street. Tent City 4 has many resources available to help residents obtain medical help, financial help, and job opportunities. There are individuals available to answer resident's questions.

Appearing was BRUCE THOMAS who is a resident of Tent City 4. He spoke on behalf of the track record of other tent cities. Tent City 3 has moved to various areas 47 times over the years. This is only the second location for Tent City 4. During all that time, no tent city neighbor has ever been harmed, nor has there been any property injured. The Bothell location also did not create any problems.

Appearing was SCOTT CLEATON who is a resident of Tent City 4. Tent City 4 has an executive committee of five people who are voted on at every camp meeting. The camp has 24 hour a day, 7 day a week security both inside and outside of camp. There is also a litter buster program to make sure that everything remains clean. Documentation was entered into the record regarding how tent city works.

Appearing was LEO RHODES who is a resident of Tent City 4. There is a strict code of conduct within the camp. Before anyone is allowed entry they are checked for warrants and a sex offender list is checked. The camp is self managed. Every individual who wants to enter has to fill out a questionnaire along with signing a contract. He believes that if

there is a valid complaint of a resident violating the code of conduct then the camp will fix it immediately. If they do not fix it immediately, they will leave within 24 hours.

Appearing was MYRA VAN VACTOR who is a resident of Redmond, Washington. She is also a member of Northshore United Church of Christ. The congregation was presented with the opportunity to sponsor Tent City 4 on church property. The congregation voted to sponsor the camp. They only did this after extensive deliberation. They have a small congregation, but they decided to do what they believed was the right thing to do. She has been coordinating the delivery of hot meals to Tent City 4. There has been a lot of community support to help provide these meals. She personally talks to people who are helping the residents. She submitted a list of all of the volunteer groups that have helped out. She has learned a lot about the Tent City 4 residents. They are always courteous and appreciative of the help they are being given. Most of the people that she has talked to do in fact have jobs, but they do not have enough to live in an apartment. She thanked the city representatives.

Appearing was CORA GOSGRUBS who is a Woodinville resident. She is also a member of Woodinville Unitarian Universalist Church who has worked closely with Northshore United Church of Christ over the last six weeks to support Tent City 4. Approximately 50 members of the church have provided funds and the cooking necessary to provide food to the residents. The church members are proud to support Tent City 4. She believes that supporting both temporary and permanent solutions to homelessness is the right thing to do.

Appearing was CHRIS AAKRE. He was one of the last people at the Bothell site. He was present there during the cleanup of the site and can testify that the area was spotless. Every piece of trash was picked up. Every cigarette but was picked up. He has been at the current site about twice a week and has found it to be clean and well maintained. He believes that Tent City 4 has had a positive impact on the city. He is the coordinator of donations at Tent City 4. He has seen how tent city works as a community. They have learned about services. The presence of Tent City 4 has provided a unique opportunity to focus social service and volunteer efforts to individuals in need. Several letters were submitted as exhibits from his church congregation.

Appearing was PAULA QUIGG who is a resident of Bothell. She met many of the Tent City 4 residents when they were living in Bothell. She has maintained her involvement since they moved to Woodinville. There have been 40 organizations that have supported the Woodinville site. She named all of the organizations into the record. Needless to say a lot of organizations, businesses and individuals have helped with Tent City 4. She submitted her statements in written form and they were admitted as an exhibit.

Appearing was LLOYD VAN VACTOR who has been living in the Woodinville area for approximately 12 years. He is currently retired, but, prior to retirement, he spent 40 years working in national and international relief activities. He has worked on large scale projects in the past. He is helping with Tent City 4. The showers that have been built have become

very famous and popular. Laundry is done at least twice a week. This is done by volunteers. He urges the approval of the continuation of the temporary use permit for Tent City 4 for the ninety days.

Appearing was JANET HOLLY who lives in Woodinville. She represents the Church of the Holy Cross Episcopal in Redmond. She has been happy to help with the Tent City 4 residents. She believes that people often overlook the needs within their own community. She started helping by bringing a couple gallons of milk and bags of ice to Tent City 4. She would ask the residents if there was anything in particular that they wanted and sometimes they would ask for things and she would go get them. She has also helped with obtaining clothing and other things for the residents. She organized giving efforts at her church and many things have been donated. Many people have seen the need and responded and helped these people.

Appearing was MARY MILLER who lives in Woodinville. She has visited the tent city every four days in supporting the residents need for communication and/or community relations. She believes that this is an appropriate spot for Tent City 4 because it is within a half of a mile of the bus station. This is in contrast to many of the other locations of tent cities. 24 hour access and security is provided around the clock. She submitted into the record a letter from a manager at Labor Ready. The manager stated that the workers from Tent City have been good workers. The manager wishes she could have been at the hearing, but had other engagements. This letter was admitted into the record.

Appearing was TIM STONEBURG who lives in Woodinville. He is an assistant cub scoutmaster and also a little league umpire. He is in support of Tent City 4. He is wondering why Woodinville Business Center would even be appealing the issue. The WBC say that they are afraid of business loss, but there is no proof of business loss. Either that is the reason they are appealing, or they are appealing because they want to make sure that the city of Woodinville is following proper procedure. He believes that proper procedures have been followed. The emergency ordinances were passed because these people were in emergency need.

Appearing was JACK VERMEULEN who has lived in Woodinville for 34 years. He gave some of his background which included a bachelor's degree and master's degree. He is not against Tent City 4, but he is worried about the process. There have been misstatements, including the statement that there was a four inch depression in the road. He visited the site and did not see this depression. Because of this, he questions other statements made by individuals that have testified. He wants the rules followed and no misrepresentations to be made by anyone. He does not believe the references to comprehensive plan goals stated in the staff report even apply because there is no definition for tents as housing. There is no such thing as a tent housing law. He does not believe that proper procedures have been followed by the city even according to their own ordinances that they passed. He submitted into the record various exhibits that included his response to the staff report and pictures that he took.

Appearing was SCOTT ST. CLAIR who is speaking on behalf of careforschools.org, the organization that was so involved in the tent city issue in Bothell. He is also present on behalf of tentcitysolutions.com. He gave his background which included a bachelor's degree and a law degree along with fairly extensive employment. He believes that SHARE/WHEEL is a charade. SHARE/WHEEL is an agenda driven, political activist group which hides behind homelessness. The tent cities legitimize homelessness as a lifestyle and perpetuate it and make it look attractive rather than actually helping the victims of homelessness. The need for Tent City 4 is a fraud. How else could Tent City 4 only be half full? He doesn't understand how SHARE/WHEEL continually seeks locations that are far from the bulk of the homeless population. Tent City 4 does not offer anything in the way of permanent solutions. Not one single homeless service organization or agency has endorsed either the tent city concept or the activities of SHARE/WHEEL. SHARE/WHEEL opposes efforts made to assist individual Tent City 4 residents. They also interfere with their religious rights. The city of Woodinville should not do business with SHARE/WHEEL. If the city does do business with SHARE/WHEEL, then the city is helping in the violation of Tent City 4 resident's first amendment rights. Northshore United Church of Christ must be capable of fully managing Tent City 4. Why don't they be the actual organization that receives the temporary use permit? Why don't members of the church invite the residents to live within its buildings or the homes of its members? Why stop at half measures? If each organization that was cited took two residents, then there would be no need for tent city.

Appearing was MIKE STICKNEY who is a resident of Woodinville. He is upset because he believes that SHARE/WHEEL has railroaded this thing through. He does not believe that it was an emergency situation. This type of tent city creates homelessness. People are coming from all over the country to the State of Washington because of what is going with these tent cities. Jobs are not being created. He pointed out that one of the residents of tent city has been a resident for nine years. Tent cities do not help the homeless.

Appearing was JOHN DIXON who briefly gave his background. Business has been lost in Woodinville because of Tent City 4. He himself does not shop in Woodinville, rather he drives to Redmond. He believes that other people are avoiding Woodinville businesses. He is just the one that is saying it. He knows that other people in Woodinville no longer shop at places around Tent City 4. He doesn't take his family there. He has brought food to Tent City 4. There are good people and there are bad people in the world. He is worried about the bad people at Tent City 4. He liked that Bothell had a 24 hour police presence when Tent City 4 was located in Bothell. There were 11 arrests in 7 weeks at Bothell. There have only been four arrests here in Woodinville. Tent city does attract bad people and these bad people are not being caught because of the lack of police presence. He also submitted a letter from his wife as an exhibit.

Appearing was STEVEN PYEATT who has served on the citizens advisory commission for homeless encampments. He represents tentcitysolutions.com. This is the group that stopped tent city from using the brickyard site. There will be emotional pleas tonight and some heartwarming stories. These have to be ignored and the decision has to be based

on the facts. The facts are that SHARE/WHEEL threatened to take park land. Ron Sims attempted to appease them by offering them the brickyard site. This site was denied by the courts. Tent City 4 then illegally located in Bothell. The court ordered that they had to obtain a permit. Despite this court order, SHARE/WHEEL threatened to just move to Woodinville and occupy the church site. Woodinville City Council has again appeased SHARE/WHEEL by offering public land. The code of conduct of the residents is often violated. The most basic code that is being violated is that children do live in the camp. The camp states that this is only on emergency circumstance. SHARE/WHEEL is a lawless operation. They only abide by the laws that help them and not the ones that hurt them. There are all kinds of problems. Bothell at least had the police presence. The money and items donated often do not go where they should go. Tent City 4 does nothing to solve homelessness. Their interest is to keep people homeless. This permit should be denied because the request is for over 60 days. It should also be denied because of the false declaration of emergency. It is odd that this camp is supposed to be for the homeless, yet they cannot even fill the camp. This option is not even acceptable to the homeless themselves. Allowing this temporary use permit will set a precedent for future encampments. This will effect the entire city.

Appearing was NORM MILLARD. He has already submitted an exhibit that has been marked. He lived right across from the church where Tent City 4 previously wanted to occupy. This was about six months ago. His thoughts initially were, well they are gone and we don't have to worry about them. He does not think that is the right thing to do. There is a problem with the credibility of the people testifying today. The residents of Tent City 4 get community credit to come and speak at this hearing. They are basically required to come and testify. They have in the past been threatened to have their bus tokens taken away if they didn't come and speak at these type of events. A lot of people that help and donate things to tent city don't in fact support the concept of tent city. One of the churches that has provided help actually denied tent city coming to their property. The main issue is safety. In Bothell there were a lot of problems. A lot of police arrests. There was a police officer there 24 hours a day, 7 days a week, yet this still happened. One of the schools that bordered it, Heritage Christian, hired their own police officers. The increase was dramatic in Bothell. In Bothell there was at least the pastor staying there. At this site, the pastor isn't even staying there. There simply isn't the presence that there was in Bothell. Tent city does have an adverse effect on the city of Woodinville.

Appearing was AL TAYLOR who lives in Woodinville. A lot of what he wanted to say has already been told to the Examiner. He had a couple of suggestions. One was that the maximum number of residents at tent city be reduced to 50 people rather than the current 100. He would also like a 24 hour presence from the sponsors. They should be required to participate in the executive council and always be there. He also believes that the sex offender check should be for a 50 state review. These can be found on the internet. More feedback should be given to the community as a whole. There should be adequate planning process for the next location to make sure that all processes are followed. The sponsors should be held accountable for periods of time after the permit expires.

Appearing was LISA ANNE REIDMAN who lives in Bothell. She has been fighting the tent cities since the brickyard site. She believes that this fight right now is fruitless because the city has already made a decision. They have already gone out of their way to make a deal with SHARE/WHEEL. SHARE/WHEEL has a history of lawlessness. They have done this for 10 years and it seems to work for them. They always claim an emergency, threaten to occupy land, and then get what they want. The city of Woodinville has allowed the use of a park, but Ron Sims did not believe that parks were a proper area for tent cities. The city has bent over backwards to create loopholes and new laws. This is setting a precedent.

Appearing was ROSEMARY ZEUTSCHEL who is here representing the Citizens for Fair Process. She submitted a number of exhibits. The corporate information is totally screwed up. Scott Morrow, who seems to run everything, does not have any legal standing whatsoever in the corporation. The code of conduct for tent city needs to be fixed as far as the requirement that women do not go in men's tents and men do not go in women's tents because sometimes there are couples that stay here. There is an inconsistency there. She does not believe that notice was properly done. One of the conditions only allows the City of Woodinville to inspect the premises. She would like the church who is sponsoring Tent City 4 to also be allowed along with Woodinville City Council members. It is her understanding that sometimes people are not allowed into the encampment, especially if they are in opposition to what is happening. The Health Department should also be allowed to give inspections at least twice a week specifically looking for signs of tuberculosis which seems to happen with the homeless. Children in the camp should be going to school.

Reappearing was RAY STURTZ who specified the exhibits that were offered by Ms. Zeutschel. The city has considered precedence, but again, does not believe that this would set any sort of precedence for future applications. Any subsequent applications will all be independently reviewed and either approved or denied on a case by case basis. He did review whether there would be adverse public safety issues. He examined all of the materials and information that he had and did not believe that there would be an increase in need for fire and police protection at the Tent City 4 location. This was verified by the chief of police and fire marshal who said it would not be needed. Notification was properly done despite testimony to the contrary. An exhibit was entered indicating how the 500 feet boundaries were determined.

Reappearing was DAVID MANN. He disagrees with the city's position regarding the 60 day limitation. The code section clearly says that the use shall not extend for more than 60 days. Three of the four provisions specify the word "permit" but not the section that relates to the 60 day limit. The city meant to leave this word out. They did not amend this part of the code in any of their emergency ordinances, therefore, 60 days from the date of the start of the temporary use, August 14, is the maximum that can be allowed for this temporary use.

No one spoke further in this matter and the Examiner took the matter under advisement.

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. Pursuant to the State Environmental Policy Act and the City of Woodinville Environmental Regulations, a City of Woodinville Environmental Official Designate has reviewed this project and issued a Determination of Nonsignificance (DNS) on August 16, 2004. On August 31, 2004, an appeal of this determination was filed by Woodinville Business Center #1.
3. Notice of this request was properly given according to the Woodinville Municipal Code. Property owners within 500 feet of the site were sent written notice. Notice also has been posted on the site. There was some testimony indicating that notice may not have been provided to all neighboring property owners, but the city did show proof that notice was sent to even neighboring property owners over 500 feet from the proposed site.
4. 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.
5. The subject property is located at 17834 – 134th Avenue Northeast. The site is designated public park/open space (PP). The site is currently unimproved. It is part of a long range park improvement plan. SR 522 is located directly north of the site. Across SR 522 are residential dwellings. Directly south of the site is Little Bear Creek and across Little Bear Creek is Woodinville Business Park. There is a storage company to the west of the site and to the east of the site is vacant land. Areas to the east, west, and south are zoned general business (GB).
6. The public park/open space zone designation permits temporary housing only as an accessory use to public buildings. This zone does not allow for the temporary housing use that is being proposed. The only way to allow this type of proposal use is to apply for permits which the applicant has done in the form of a temporary use permit application.
7. 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. This is a controlled access road with limited access from the north, east, and west. There essentially is one way in and one way out.
8. This hearing was limited to deciding whether a Temporary Use Permit should be

approved and whether the SEPA appeal should be granted. An analysis of each issue follows.

TEMPORARY USE PERMIT

9. The site has been occupied by Tent City 4 residents since August 14, 2004. The occupancy was allowed pursuant to authorization granted by Emergency Ordinances 369 through 372. These ordinances, passed by the City of Woodinville, granted use of the site subject to the applicant (a) applying for a temporary use permit, (b) enforcing the SHARE/WHEEL code of conduct, (c) temporary buffer use agreement and (d) actively pursuing their next location. This Temporary Use Permit application is requested so that the stay can continue past the time which was granted by the Emergency Ordinances.
10. The applicant initially requested to have Tent City 4 be located at Northshore United Church of Christ which is located at 18900 – 168th Avenue Northeast. There were a lot of concerns expressed about that location because the location was within a fairly rural, residential area. There was poor transit service available. It was a substantial distance from labor opportunities and generally did not allow for adequate activities for the residents, therefore, the proposed location was switched to its current location.
11. This proposed use does not fall strictly within any particular zoning use. It is a residential use in that it is for temporary housing. It is consistent with the Woodinville Comprehensive goals as stated in Goal H-3 of providing housing opportunities in Woodinville for people with special needs. The proposed use will allow for temporary housing of up to 100 homeless people.
12. The type of use proposed by the applicant is not allowed within the public park/open space zone designation of the Woodinville Comprehensive Plan unless a temporary use permit is granted. Prior to a temporary use permit being approved, an applicant must show that the criteria under Woodinville Municipal Code Section 21.44.030 is satisfied. Findings on each criteria are hereby made as follows:

1. *The proposed temporary use will not be materially detrimental to the public welfare:*

The current site appears to be ideal for this type of use. It is located very close to commercial and industrial areas. It is well screened from neighboring properties. Individuals can only obtain access to Tent City 4 via 134th Avenue NE, a restricted access street. 134th Avenue NE deadends at the entrance to the site. There is very limited parking allowed. All residents are screened before they can enter the encampment by a security booth that is located right at the entrance to the facility. All residents must sign a contract indicating that they will follow the code of conduct established by

SHARE/WHEEL. There are porta-potty toilets, a shower, and hand washing facilities in the same area as the office/check in tent. Residents are excluded from entry if any drug or alcohol is used or if they violate the code of conduct established by SHARE/WHEEL. Sex offender and warrant lists are checked. The downtown commercial area is located conveniently to shopping. It is close to employment opportunities and it is also close to the bus line. The site is bordered by SR 522 to the north which limits any access from the north. The residences across SR 522 will not be affected at all by the encampment. Little Bear Creek is located to the south of this proposal which creates a natural boundary. There is a 100 foot buffer from Little Bear Creek that is marked by fencing. The residents are not allowed to enter into these buffer areas. The disturbance to Little Bear Creek will be marginal. There is no indication that any adverse affects have been created to Little Bear Creek from the use. The concerns expressed by the opponents of the application were related to, but not limited to, the precedence that this will set for future tent city proposals, the security concerns associated with Tent City 4, the potential for increase in crime, the process being not appropriate, the potential for environmental impacts associated with Little Bear Creek and that tent cities do more harm then good. All of the concerns expressed do not show that this temporary use will be materially detrimental to the public welfare. Both police and fire department officials testified that the impact of the use has been minimal. The police department has visited the site, and will continue to visit the site, on average 2.5 times per day. Very limited criminal activities have taken place. Security is provided by the residents around the clock. Any violations subject a resident to expulsion from the encampment. Findings below further discuss these concerns.

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

As noted above, the site is bordered by SR 522 and Little Bear Creek. The property to the west is a fenced storage area. Tent City 4 is a 24 hour a day, seven day a week use. The noise from the encampment is fairly limited. There is more natural noise created from SR 522 than from this use. Noise and hours of operation will essentially have no effect on the surrounding areas.

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.*

SHARE/WHEEL limits the number of vehicles permitted on site to five vehicles because of the limited off street parking. It will be easy to monitor and control.

4. *The proposed temporary use is not otherwise permitted in the zone in which*

it is proposed.

This type of temporary use is not permitted as a principal use in the public parks/open space zone designation. This area will be a future park site. It will eventually be part of the Little Bear Creek trail system.

13. There was substantial testimony regarding the impact to Little Bear Creek that may result because of the allowance of this use on the property. Little Bear Creek has been designated as a critical area. It is a salmon bearing stream and has associated wetlands which require a 100 foot buffer area. Fencing has been put along the 100 foot barrier. The residents of Tent City 4 are not allowed to go within this area. Nothing has been shown to indicate that they are violating this restriction. There was work done on 134th Avenue NE to install a gray water drain for the showering and hand washing sink. There was also a water line installed. There was no testimony to show that these activities somehow caused problems associated with Little Bear Creek. Therefore, the effect of this use on Little Bear Creek is negligible.
14. As stated above, testimony from the Woodinville City Police Department indicated that they have visited the site an average of 2.5 times per day. This will continue through the entire time that Tent City 4 uses the property. There have been four arrests. No arrests were the result of neighbors being victimized. Though the police presence is not 24 hours 7 days a week as it was at the Bothell site, it does not appear as though not having officers there around the clock has caused any significant impacts or will cause any significant impacts in the future.
15. The length of stay was discussed extensively. The issue is whether the applicants are limited to 60 days of use. It is undisputed that occupancy of the camp started on August 14, 2004. The argument is that the 60 days would end on October 13, 2004. The request is to have the Tent City 4 encampment use the property until November 22, 2004. The emergency ordinances that were passed by the city, namely emergency ordinances 369 – 372, essentially allowed the city manager authority to allow this use for a period of time prior to a temporary use permit being granted. The city manager actually has authority to allow the use for a 100 day period. King County courts have upheld the right of the city to enact these emergency ordinances. These ordinances modified or amended WMC Section 21.32.120 as it relates to this particular use. Though part of this section states that a temporary use shall not exceed a total of 60 days, the ordinances passed by the city allowed for an extension of that time. Therefore, temporary use permit approval does not limit the stay until October 13, 2004, rather the cities enacted ordinances has allowed the Temporary Use Permit deadline to extend to November 22, 2004.

SEPA REVIEW

16. Woodinville Business Center #1 filed an appeal of the SEPA determination on

August 31, 2004. The SEPA determination made by the environmental official determined that this proposal will not have a probable significant adverse impact on the environment, therefore, a determination of non-significance (DNS) was issued on August 16, 2004.

17. An environmental official's threshold determination is given substantial weight according to RCW 43.21C.075(3)(d). The standard of review for a threshold determination is "clearly erroneous". Haden v. Port Townsend 93 Wn. 2d 870 (1980). A decision is "clearly erroneous" when, even when there is evidence to support the decision, the reviewing body is left with a definite and firm conviction that a mistake has been committed. The burden is on the appellant to show that the environmental official's determination is clearly erroneous.
18. The appellant states 26 issues for why the DNS was inappropriate on this case. Analysis of each of the issues brought up by the appellant is hereby made as follows:

1. *There is no actual consideration of environmental impacts by the city.*

The environmental official did examine the SEPA checklist that was submitted by the applicant. There were significant field inspections made by various city officials and a wetland specialist. The main concern appeared to be the potential for Little Bear Creek to be adversely affected. After examining the checklist and visiting the site, the environmental official determined that the limited work that would be done on this site would not have an impact on the environment.

2. *The city has recognized that homeless encampments have substantial impacts on the surrounding communities.*

The environmental official determined that there were no substantial impacts on the surrounding community after talking to various other jurisdictions that have housed homeless encampments. The evidence presented at the hearing did not indicate that substantial impacts would occur.

3. *This proposal is for the use of public lands. The city did not consider alternatives to the proposal.*

Testimony at the hearing was that the city did discuss other potential sites including the one that was originally applied for which was on the church property. It was determined that there may be too many problems with the original site, thus the current site was examined.

4. *The use of park land for a homeless encampment sets a precedent for the use.*

A temporary use, such as the one that is proposed, will be examined by the city on a case by case basis. The environmental official, along with other city representatives, have not found that this will set a precedent for future use of this site or other sites in the area. Temporary Use Permits are highly site specific and, just because this particular property was used for a homeless encampment, does not mean that it will be used in the future, nor will it bind the city for other possible uses in the future.

5. *Use of park land for a homeless encampment sets a precedent for the use and misuse of park land.*

The plan is for this particular site to be improved. Currently it is unimproved park land. Again, any future use of the park land would have to be examined on a case by case basis, thus just because this particular use is allowed does not mean that in the future a homeless encampment will be allowed on any other park land.

6. *Tent City 4 will have a significant adverse impact on Little Bear Creek.*

Substantial testimony was given from various city representatives indicating that Little Bear Creek will not be adversely affected by the encampment. There is a buffer area that residents are not allowed to enter. There is already bio filter fencing. There is no significant construction, thus there has not been shown to be a potential significant adverse impact on Little Bear Creek.

7. *Tent City 4 will have a significant adverse impact on anadromous fish.*

The use is outside of the 100 foot buffer area. Little Bear Creek would not be affected, thus the fish within Little Bear Creek will not be affected.

8. *Tent City 4 will have a significant impact on endangered species.*

As noted above, there will be no adverse impact to Little Bear Creek, thus there will be no impact on endangered species.

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.*

Again, there does not appear to be any potential adverse impact on Little Bear Creek or the buffer. Fencing has been put up. The residents are required to stay out of this 100 foot buffer area. If they are caught within the 100 foot buffer area, then they would be subject to exclusion from the camp.

There is piping from the hand washing area and the shower that will ensure that no gray water contaminates the area.

10. *The proposal required significant modifications to park land which is a significant adverse impact.*

There simply was no significant modification.

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.*

There was testimony from all of the city representatives indicating that there has not been significant harm to the environment. King County courts upheld the right of the city to enact an emergency ordinance to allow the use prior to permit approval.

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.*

It appears that there was already a bio filtration fence when the work began. After city representatives examined the site, it was determined that installing the lines would not have any effect on Little Bear Creek. There is some dispute about the condition of the roadway and whether the condition would prevent any dirt from possibly entering into the creek. No evidence was presented showing any adverse impact.

13. *The city reports to be concerned about the water quality of Little Bear Creek and about the anadromous and endangered fish which use Little Bear Creek. The city has lost its credibility regarding its concerns by participating actively in the establishment of Tent City 4 without the measures necessary and appropriate for protection of the creek against erosion and siltation. The city's plans for the Little Bear Creek quarter 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 other's 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.*

There has not been any showing that Little Bear Creek has been adversely affected. The City of Woodinville did everything legally in enacting emergency ordinances and going through this temporary use permit process.

This has been challenged by the appellants and King County Superior Court has agreed with the City of Woodinville's position.

14. *That the proposal will adversely affect the city's ability to protect Little Bear Creek and to implement the Little Bear Creek Master Plan.*

The temporary use will not have any affect on Little Bear Creek or the Little Bear Creek Master Plan.

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

A temporary use permit is allowed for uses that can satisfy the criteria according to the Woodinville Municipal Code. Inherent in the temporary use application is that the particular use is not allowed in a particular zone. Therefore, if the applicant can show that the temporary use criteria is satisfied, then the use is permitted.

16. *The city has violated WMC 14.04.260(a) 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.*

As stated above, the emergency ordinances passed by the city of Woodinville have found to been legal. The work done to prepare the site was relatively minimal.

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 the tenants are significant and adverse.*

No evidence or testimony was presented that would indicate significant adverse impacts.

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

The location of Tent City 4 is shielded significantly from neighboring properties. Little Bear Creek and the vegetation associated with the creek visually shield the encampment from the areas to the south. The area to the north is SR 522. Access is limited to 134th Avenue NE which deadends at SR 522. The aesthetic effect is minimal at most.

19. *The water quality impacts of the proposal are significant and adverse.*

As stated above, Little Bear Creek will not be affected.

20. *The land use impacts associated with allowing homeless encampments in city parks and allowing establishment of such uses in advance of environmental review are significant and adverse.*

There is no evidence that there are significant environmental impacts as a result of the use.

21. *The city's abuse of its authority to enact emergency ordinance is a significant adverse effect of this proposal.*

The Examiner does not have authority to decide whether the emergency ordinances were improper. King County Superior Court has determined that the emergency ordinances were appropriate.

22. *The proposal will cause human waste, sewage, gray water, soap, and other contaminants to enter Little Bear Creek. This is a significant adverse impact.*

Gray water lines have been installed to ensure that the shower and hand washing facilities properly drain into a sewer manhole. Porta-potties are used and cleaned routinely.

23. *The proposal will have significant adverse impacts with respect to public safety. The city has failed to consider the history 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 record of arrests and police incidents involving Tent City 4.*

As stated above, fairly exhaustive discussions and investigation was conducted by city officials and the evidence does not show that public safety will be affected significantly.

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.*

Temporary use permit applications are considered on a case by case basis. There are specific deadlines put within the temporary use and these will have to be abided by.

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 allow a copy of the application until threatened with litigation, has continued to refuse to allow other public records pertaining to this application.

There is some question whether this even falls into a SEPA review issue. It appears that there were substantial requests for information regarding this application and that the city made best efforts to provide information when requested.

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

There has been no testimony or evidence indicating that the threshold determination made by the environmental official was clearly erroneous, thus the threshold determination does not have to be withdrawn.

19. As stated above, it is the appellant's burden to show that the threshold determination provided by the environmental official was "clearly erroneous". It has not been shown by the appellant that this decision was clearly erroneous, thus the SEPA threshold determination is upheld.

CONCLUSIONS:

1. The Hearing Examiner has jurisdiction to consider and decide the issues presented by this request.
2. The appellant has not satisfied his burden to prove that the threshold determination made by the environmental official is clearly erroneous, therefore, the SEPA appeal is denied.
3. The site is isolated from surrounding properties. It is being serviced by a gray water sewer line and a water connection. All uses are outside Little Bear Creek and the associated wetland buffer of 100 feet and all appropriate measures have been taken to protect Little Bear Creek. The proposal does provide temporary housing for individuals with special needs. Therefore, the applicant has shown that the proposal conforms generally with the goals and policies as set forth in the City of Woodinville's Comprehensive Plan.
4. The evidence presented has shown that the proposed temporary use will not be material detrimental to the public welfare, it will be compatible with existing land use in the immediate vicinity in terms of noise and hours of operation, adequate public offstreet parking for the exclusive use of the proposed temporary use can be provided in a safe manner, and that the proposed temporary use is not otherwise permitted in the zone in which it is proposed. Therefore, the proposal satisfies the

temporary use permit criteria as stated in WMC Section 21.44.030. The Temporary Use Permit is granted to allow the Tent City 4 use to continue until November 22, 2004, subject to the following conditions:

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 City 4 is 100 persons.
4. 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.
5. Vehicles associated with Tent City 4 shall not be parked on neighboring streets or properties.
6. Bus passes shall be issued daily to occupants of Tent City 4.
7. 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.
8. Any electrical extensions shall meet fire/building code.
9. The City Fire Marshal or his designated representative shall inspect the encampment to insure fire safety conditions and issues have been satisfied.
10. Because of the potential flammable nature of tents, designated safe areas within the encampment for smoking shall be established.
11. Open flames shall not be permitted on site.
12. 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.

13. SHARE/WHEEL shall immediately contact the Woodinville Police Department if someone is rejected or ejected from Tent City 4 if the reason for rejection or ejection is an active warrant or a match on the sex offender check, or if, in the opinion of the on-duty Executive Committee member or the on-duty security staff the rejected/ejected person is a potential threat to the community.
14. The City Police Department shall provide a presence by periodic patrols of the encampment.
15. 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.
16. The City Code Enforcement Officer will be responsible for responding to public complaints.
17. The City Code Enforcement Officer will also be responsible for coordinating with SHARE/WHEEL in resolving any violations of the Temporary Use Permit.
18. Tents for residents shall be located either side of the 8 foot gravel pathways installed by the Public Works Department.
19. That the fabric bio-filtration fence placed along the 100 foot wetlands/stream buffer shall remain.
20. All residents of TC4 shall agree to abide by the Code of Conduct as established by SHARE/WHEEL.
21. Anyone violating the Code is held accountable by the TC4 Executive Committee.
22. 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

23. 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.
24. 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.

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 of SHARE/WHEEL for a Temporary Use Permit to locate Tent City 4 at 17834 – 134th Avenue Northeast is granted subject to the conditions contained in the conclusions above. The permit shall expire on November 22, 2004. The SEPA appeal is hereby denied.

ORDERED this 14 day of October, 2004.


MARK E. HURDELBRINK
Hearing Examiner

TRANSMITTED this _____ day of October, 2004, to the following:

PROPERTY OWNER: City of Woodinville
17301 – 133rd Avenue NE
Woodinville, WA 98072

PROJECT ORGANIZER: Seattle Housing and Resource Effort (SHARE)
Women's Housing, Equality and Enhancement League (WHEEL)
PO Box 2548
Seattle, WA 98111

PROJECT SPONSOR: Northshore United Church of Christ
Dennis Lone, Moderator
Amy Spencer, Clerk
Paul Forman, Minister
18900 – 168th Avenue NE
Woodinville, WA 98072

OTHERS:

