

1 BEFORE THE HEARING EXAMINER FOR THE CITY OF MONROE

2 Phil Olbrechts, Hearing Examiner

3

4 RE: Monroe Water Reservoir	FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL DECISION.
5 Conditional Use 6 CUP2020-01	

7 **SUMMARY**

8 The Applicant requests approval of a conditional use permit to construct a 0.85-
9 million-gallon reservoir and associated stormwater detention facility next to an
10 existing Monroe reservoir adjacent to the Monroe Correctional Facility. The
11 application is approved subject to conditions.

12 **ORAL TESTIMONY**

13 Anita Marrero, Associate Planner, summarized the staff report. In response to
14 Examiner questions, Ms. Marrero responded that there are no structures downslope
15 from the steep slopes on the south of the project. She also responded that the tank
16 will be very visible to the single-family home on the west side due to extensive
17 vegetation.

18 Kim Klinkers, senior Monroe engineer, in response to Examiner questions stated that
19 the tank likely was not visible from SR 2 but probably from SR 522. She noted that
20 the tank would be painted to blend with the surroundings, a greenish-bluish color.
21 The proposed tank will be a little bit higher than the existing tank due to a change in
22 seismic standards.

23 Nathan Rostad, engineer for Applicant, noted that the Applicant is working with the
24 City to see if there's some way to meet stormwater standards without having to build
25 the detention pond. The height will be slightly higher than the existing tank due to
updated seismic standards that require that sloshing water caused by an earthquake
will not hit the roof of the tank. Visibility will be the same as the existing tank.

EXHIBITS

Exhibits 1-14 in the "List of Exhibits," accompanying the staff report, were admitted
during the hearing on the application. Staff's PowerPoint presented during the
hearing was admitted as Ex. 15.

FINDINGS OF FACT

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Procedural:

1. Applicant. Kim Klinkers, P.E. on behalf of the City of Monroe, 806 West Main Street, Monroe, WA 98272.

2. Hearing. A virtual hearing was held on the application on June 18, 2020 at 10:00 am with the Zoom application, Zoom Meeting ID No. 879 3032 9425.

Substantive:

3. Proposal. The Applicant requests approval of a conditional use permit to construct a 0.85-million-gallon reservoir and associated stormwater detention facility next to an existing Monroe reservoir adjacent to the Monroe Correctional Facility. The major improvements for the proposed project include:

- One new 0.85 MG AWWA D100 welded steel reservoir with a 73’ diameter and a maximum height of approximately 40 feet.
- Water main connection to the existing 12-inch water main.
- Stormwater detention pond.
- Access road around the reservoir.

The Applicant is currently working with the City to see if the construction of the detention facility can be avoided under the City’s stormwater regulations.

4. Characteristics of the Area. The Monroe High School and Monroe Correctional Center are located to the north. Wetland mitigation areas are located to the south and east. SR 522 and sparse single-family home development are located to the west.

5. Adverse Impacts. There are no adverse impacts associated with the development. Pertinent impacts are addressed as follows:

A. Views. The proposed reservoir tower will be placed adjacent to an existing tower of similar dimensions. The new tower will be obscured from view by heavy vegetation. The only semi-proximate sensitive land uses are the single-family homes located to the west and the view impacts to those homes will be modest at best given the institutional nature of surrounding development. The conditions of approval also require that the tower be painted with colors that blend into the environment. For these reasons, view impacts are not found to be significant.

B. Traffic. The proposed water storage tank / reservoir will sit immediately adjacent to one of the City’s existing water storage tanks, so will not change the existing use of the site. This will result in no changes to current traffic, by allowing site visits of both tanks at the same time. The site will not be accessed by the public.

C. Compatibility. The most proximate uses are institutional or undeveloped and overall the proposal will not create any significant adverse impacts to any properties in the vicinity. For these reasons, the proposal is found compatible with surrounding uses.

1 D. Utilities. The only utility apparently required for the proposal would be
2 electricity. Electricity is required for regular operations once construction is complete
3 and will be provided by the existing electrical service to the site. Electric power is
4 needed for instrumentation, controls, and outdoor lighting. Electricity is provided by
5 Snohomish County PUD and water is provided by the City of Monroe. Any other
6 utilities necessary for the proposal are identified at page 2 of the staff report.

7 E. Critical Areas. The only critical areas proximate to the project site are
8 steep slopes. Those slopes have been evaluated in a geotechnical report with the
9 objective of ensuring safe construction. To accomplish this, the geotechnical report
10 recommends amongst other things that the project be separated from the steep slopes
11 by 50 feet. The recommendations of the geotechnical report are made conditions of
12 approval.

13 F. Hazards.. The only hazards other than the steep slopes apparent from the
14 proposal are structural. The City's building codes, in particular its seismic standards
15 as testified by the Applicant's project engineer, are designed to ensure structural
16 stability. Building code standards will be imposed during building permit review.

17 CONCLUSIONS OF LAW

18 **Procedural:**

19 1. Authority of Hearing Examiner. Table 22.84.060(B)(1) and (2) provide
20 that the hearing examiner shall hold hearings and issue final decisions on conditional
21 use permit applications.

22 **Substantive:**

23 2. Zoning. The subject property is Institutional.

24 3. Review Criteria and Application. MMC 22.32.030 requires a conditional
25 use permit for major institutional facilities in the Institutional zone. Conditional use
26 permit applications are governed by MMC 22.64.040A5, the criterion of which are
27 quoted below in italics and applied through corresponding conclusions of law.

28 **MMC 22.64.040A5a:** *The use is consistent with the Monroe unified development
29 regulations and the comprehensive plan;*

30 4. The criterion is met. The use is consistent with applicable development standards
31 as outlined in the "Institutional Zoning District" table located at p. 4-5 of the decision.
32 The proposal is consistent with the comprehensive plan for the reasons identified at
33 page 3 of the staff report.

34 **MMC 22.64.040A5b:** *The use is designed, constructed, operated, and maintained in
35 a manner that is compatible with the existing or intended character, appearance,
36 quality of development, and physical characteristics of the subject property and the
37 general vicinity;*

1 5. The criterion is met. The proposal is compatible with surrounding uses because it
2 does not create any adverse impacts as outlined in Finding of Fact No. 5.

3 **MMC 22.64.040A5c:** *The location, size, and height of buildings, structures, walls,*
4 *fences, and screening vegetation for the conditional use shall not hinder neighborhood*
circulation or discourage the permitted development or use of neighboring properties;

5 6. The criterion is met. The proposal will not hinder neighborhood circulation for
6 the reasons identified in Finding of Fact No. 5B. The proposal will serve as no
7 discernable impediment to the development or use of neighboring properties given its
lack of impacts.

8 **MMC 22.64.040A5d:** *The type of use, hours of operation, and appropriateness of the*
9 *use in relation to adjacent uses will not create unusual hazards or result in adverse*
impacts;

10 7. The criterion is met. As determined in Finding of Fact No. 5, there are no adverse
11 impacts associated with the proposal and the use is fully compatible with the
12 surrounding development. The proposal will not create any hazards for the reasons
identified in Finding of Fact No. 5F.

13 **MMC 22.64.040A5e:** *The use shall be served by adequate public facilities and*
14 *services and will not adversely affect public services to the surrounding area or*
conditions can be established to mitigate adverse impacts of such facilities; and

15 8. The criterion is met for the reasons identified in Finding of Fact No. 5B and D.

16 **MMC 22.64.040A5f:** *In addition to compliance with the criteria set out here, an*
17 *applicant for a conditional use permit shall comply with all requirements of this title.*

18 9. The criterion is met. The use is consistent with applicable Title 22 standards as
19 outlined in the “Institutional Zoning District” table located at p. 4-5 of the decision.

20 **DECISION**


21 The conditional use permit is found to be consistent with all applicable conditional
22 use permit criteria for the reasons outlined in the conclusions of law in this decision.
23 As a result, the conditional use permit application is approved, subject to the
following conditions:

- 24 1. The subject conditional use permit shall run with the land and be transferable to
25 future property owners and/or lessors provided that the use not be discontinued
for more than 6 months, as referenced in the Nonconforming Use section of the
Monroe Municipal Code found in section 22.40.090(B)(2)(a).
2. The project shall implement all of the applicable recommendations contained in

1 the Geotechnical Report, prepared by HWA Geosciences Inc., dated February 3,
2 2020 (Exhibit 11).

- 3 3. There shall be a 50' buffer between the reservoir and the crest of the slope.
- 4 4. The environmental impacts shall not exceed those identified in the SEPA
5 checklist (Exhibit 13) and the resulting SEPA Determination of Non-Significance.
- 6 5. Noise from the use shall comply with the maximum acceptable sound pressure
7 level or noise as found in MMC 6.04.055, Public Nuisances, and Chapter 173-60
8 WAC, Maximum Environmental Noise Levels.
- 9 6. In the event the use creates a detrimental impact to the surrounding properties, as
10 identified through the code violation processes and nuisance code found in Title 6
11 of the Monroe Municipal Code and other applicable nuisance chapters; the City of
12 Monroe may require a subsequent public hearing to discuss modification(s) to, or
13 revocation of the Conditional Use Permit.
- 14 7. Cost of any work, new or upgrade, to existing facilities that is required to connect
15 this proposed development to the Snohomish County PUD electric system shall
16 be in accordance with the applicable Snohomish County PUD policies. The
17 developer will be required to supply the District with suitable locations/easements
18 upon its property for any electrical facilities that must be installed to serve the
19 proposed development.
- 20 8. The recipient of a conditional use permit shall file a land use permit binder on a
21 form prescribed by the City. The conditional use permit shall not be effective until
22 such binder has been filed with the Snohomish County auditor. If no appeal was
23 filed on the conditional use permit decision, the binder shall be filed within thirty
24 days of the expiration of all applicable appeal periods. The binder shall serve both
25 as an acknowledgment of, and agreement to abide by the terms and conditions of
the conditional use permit, and as a notice to prospective purchasers of the
existence of the conditional use permit.
9. A building permit and engineering permit is required.
10. The water reservoir tower shall be painted a color that blends into the surrounding
environment and is acceptable to the City.

19 Dated this 2nd day of July 2020.

20 
21 Phil A. Olbrechts
22 **City of Monroe Hearing Examiner**

23 **Appeal Right and Valuation Notices**

24 MCC Table 22.84.060(B)(1) and (2) provide that this decision is final, subject to appeal to
25 Snohomish County superior court. Such appeals are governed by the Land Use Petition

1 Act, Chapter 36.70C RCW. Appeals must be filed and served within 21 days of issuance
of this decision as required by the Land Use Petition Act.

2 Affected property owners may request a change in valuation for property tax purposes
3 notwithstanding any program of revaluation.

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