

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

FINDINGS, CONCLUSIONS AND DECISION

Applicant: Duane Scholten
8223 Guide Meridian
Lynden, WA 98264

File No: PL06-0548

Request: Special Use Permit

Location: 9534 Green Road, southwest corner of inter-
section of Cook Road and Green Road, within
a portion of Sec 19, T35N, R4E, W.M.

Land Use Designation: Rural Business (RB)

Summary of Proposal: Construction of a 2,625 square foot addition to
an existing 5,250 square foot equipment sales
facility.

Public Hearing: After reviewing the report of Planning and
Development Services, the Hearing Examiner
conducted a public hearing on February 28, 2007.

Decision: The application is approved, subject to conditions.

FINDINGS OF FACT

1. Duane Scholten (applicant) seeks to build an addition to his existing equipment sales facility, Scholten's Equipment, Inc.

2. The facility is located at the southwest corner of the intersection of Cook Road and Green Road (address: 9534 Green Road). The site is within a portion of Sec. 19, T35N, R4E, W.M. The zoning is Rural Business (RB).

3. The property lies adjacent to the Burlington Northern Railroad tracks located along the west property line. The area contains several existing businesses and a variety of different zoning designations (Rural Business, Rural Freeway Service, Rural Reserve, and Agricultural-Natural Resource Lands).

4. The subject business was established prior to July 1, 1990.

5. The business is a retail and repair establishment for the sale and repair of farm implement and heavy equipment machinery. The adjacent property to the south is occupied by Fab-Tech, a welding shop. To the west are a new hotel, Bob's Burger and Brew and two gas stations. To the north and east are several residences and open farm land.

6. The existing building is 70' by 75', totaling 5,250 square feet. The proposed addition will be 35' by 75' (2,625 square feet), built onto the east side of the existing building. The expansion will be exactly 50% of the existing footprint.

7. The proposed building addition will be a pre-engineered steel structure with the west side open to the existing wall of the current building. The addition will have storefront systems for the show room area, vinyl windows at other locations, and an overhead roll up for the repair area. The addition will blend with the existing building, providing more show room space, more storage space and more repair shop space.

8. The lot contains more than adequate room for the addition. With it, the setback from Green Road to the east will still be approximately 103 feet. At present about 90% of the lot is impervious surface, consisting primarily of a level gravel parking area. The impervious surface percentage will not change. The lot is surrounded by a chain link fence to prevent trespass.

9. Access to the business is via a driveway from Green Road located approximately 200 feet from the intersection with Cook Road. The existing building plus the addition requires 12 parking stalls, which will be provided. One on these will be a van accessible paved stall. Adequate maneuvering room for fire truck access is available around the facility. A new sidewalk will be installed next to the addition.

10. Scholten Equipment currently employs nine people on the site, divided among the shop, equipment sales, and parts sales. Six of these employees reside within Skagit County. The hours of operation are from 8 a.m. to 5 p.m. Monday through Friday, and 8 a.m. to 12 p.m. on Saturday. None of this will change. Any increase in traffic to the site will be minimal.

11. The plans for the addition have been prepared by an architectural firm. The new structure will not dominate the area. It will be visually compatible with the surrounding neighborhood.

12. Water is and will be supplied by the Public Utility District. Fire flow is adequate to service the expanded facility. The septic drainfield is adequate to provide sewage treatment. No increased burden on the existing septic system is anticipated, but a reserve drainfield has been identified. The existing infrastructure has the capacity to accommodate the proposal.

13. The property contains no critical areas. There is currently an oil/water separator on-site on the exterior for the wash bay. Adequate plans and procedures are in effect for handling spills and maintaining clean conditions. Significant adverse environmental impacts are unlikely.

14. The application was reviewed under the State Environmental Policy Act (SEPA) and, as a result, a Mitigated Determination of Non-Significance (MDNS) was issued on December 7, 2006. The MDNS was not appealed. It contains the following conditions:

- a. Temporary erosion/sedimentation control measures, as approved by the Skagit County Department of Public Works shall be in place prior to the start of work. The applicant shall maintain all temporary erosion/sedimentation control measures in accordance with the Skagit County Drainage Ordinance. Said measures shall remain in place until completion of the project.
- b. The applicant shall comply with Northwest Clean Air Agency requirements.
- c. The applicant shall comply with the provisions of Chapter 14.32 of the Skagit County Code, the Skagit County Drainage Ordinance.
- d. The applicant shall comply with all relevant provisions of 14.24 (Skagit County Critical Areas Ordinance).
- e. The proposal shall comply with the Skagit County Fire Marshal requirements.

15. The application was routed to the appropriate County departments. Their few concerns were answered during the application process.

16. Notice of the application was duly posted, published and mailed on November 3, 2006. Two comment letters were received. One was from the property owner who praised the business for its community contributions and urged approval. The other requested that the entry way be paved to reduce dust and that additional landscaping be installed.

17. At the hearing there was no public testimony. The applicant testified, noting among other things, that a better effort will be made to control dust in the future. The property owner, Robert Farrell, stated that the business runs a very clean shop and has been an excellent tenant. He noted that the applicant will in the near future own the property.

18. The County's presentation emphasized that the County's performance standards encompass the control of dust. The Northwest Clean Air Agency likewise has standards for the control of fugitive dust. The County noted that landscaping is shown on the site plan.

19. A rural business established prior to July 1, 1990 may be expanded by more than 1,500 square feet and up to 50% of the existing building footprint by Hearing Examiner Special Use Permit, provided that the following criteria are met (SCC 14.16.150(4)(d)):

- (i) The expansion will occur on the same lot upon which the existing use is located;
- (ii) The expansion is visually compatible with the surrounding neighborhood and rural area;
- (iii) Detrimental impacts to adjacent properties or to existing easement rights on the property will not be increased or intensified;
- (iv) The expansion does not result in a formerly small operation dominating an area;
- (v) The expansion will not constitute new urban growth in the rural area, except that uses may utilize urban services that are historically already available to the site; and
- (vi) Public services and facilities are limited to those necessary to serve isolated nonresidential use and are provided in a manner that does permit low density sprawl.

20. The Hearing Examiner finds that all of the above criteria are met by this proposal.

21.. The criteria for Special Use Permit approval are set forth at SCC 14.16.900(2)(b)(v), as follows:

- (a) The proposed use will be compatible with existing and planned land use and comply with the Comprehensive Plan.
- (b) The proposed use complies with the Skagit County Code.
- (c) The proposed use will not create undue noise, odor, heat, vibration, air and water pollution impacts on surrounding, existing, or potential dwelling units, based on the performance standards of SCC 14.16.840.
- (d) The proposed use will not generate intrusions on privacy of surrounding uses.
- (e) Potential effects regarding the general public health, safety, and general welfare.
- (f) For special uses in ... Natural Resource Lands ..., the impacts on long-term natural resource management and production will be minimized.
- (g) The proposed use is not in conflict with the health and safety of the community.
- (h) The proposed use will be supported by adequate public facilities and services and will not adversely affect public services to the surrounding areas, or conditions can be established to mitigate adverse impacts on such facilities.

22. The Staff Report analyzes the application against the above criteria and determines that, as conditioned, the project will be consistent with them. The Hearing Examiner concurs with this analysis and adopts the same. The Staff Report is by this reference incorporated herein as though fully set forth.

23. Any conclusion herein which may be deemed a finding is hereby adopted as such.

CONCLUSIONS OF LAW

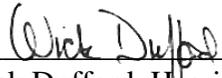
1. The Hearing Examiner has jurisdiction over the persons and the subject matter of this proceeding.
2. The requirements of SEPA have been met.
3. The proposed addition to Scholten Equipment is permitted by Special Use Permit if the conditions of SCC 14.16.150(4)(d) are met. Under the facts, the proposal satisfies those conditions.
4. As conditioned, the proposed addition is consistent with the criteria for approval of a Special Use Permit. SCC 14.16.900(2)(b)(v).
5. Any finding herein which may be deemed a conclusion is hereby adopted as such.

CONDITIONS

1. The applicant shall construct the addition as described in the application materials, except as the same may be altered by these conditions.
2. The applicant shall obtain a building permit and all other necessary permits and approvals,
3. The applicant shall comply with the conditions set forth in the MDNS issued on December 7, 2006. (See Finding 14.)
4. The applicant shall comply with all relevant State regulations, including water quality standards, Chapters 173-200 WAC (ground water) and 173-201A WAC (surface water), and environmental noise, Chapter 173-60 WAC.
5. The applicant shall comply with all relevant County regulations, included Chapter 14.16 SCC (zoning), Chapter 14.24 SCC (critical areas), and SCC 14.16.840 (performance standards).
6. The oil/water separator shall be maintained in accordance with the monitoring and maintenance contract.
7. The permit shall be void if the project is not started within two years of the date of approval, and if abandoned for a period of one year.
8. Failure to carry out any of these conditions may result in revocation of the permit.

DECISION

The requested Special Use Permit is approved, subject to the conditions set forth above.



Wick Dufford, Hearing Examiner

Date of Action: March 20, 2007

Date Transmitted to Applicant: March 20, 2007

RECONSIDERATION/APPEAL

As provided in SCC 14.06.180, a request for reconsideration may be filed with Planning and Development Services within 10 days after the date of this decision. As provided in SCC 14.06.120(9), the decision may be appealed to the Board of County Commissioners by filing a written Notice of Appeal with Planning and Development Services within 14 days after the date of the decision, or decision on reconsideration, if applicable.