

## NOTICE OF DECISION

### BEFORE THE SKAGIT COUNTY HEARING EXAMINER

**Applicant:** James and Gretchen Lee  
6819 State Route 9  
Sedro-Woolley, WA 98283

**Request/File No:** Special Use Permit (Home Based Business 3), PL10-0005

**Location:** 6819 State Route 9, Lot 1 of Short Plat PL04-0308, within a portion of the SW1/4SW1/4 Sec. 6, T35N, R5E, W.M. (Parcel #P38517)

**Land Use Designation:** Rural Reserve

**Summary of Proposal:** To install a catering commissary kitchen for the Double Barrel BBQ, occupying approximately 3,800 square feet in the northern portion of an existing barn.

**SEPA Compliance:** Mitigated Determination of Non-Significance (MDNS) issued on April 6, 2010. No comments. No appeal.

**Public Hearing:** July 14, 2010. No public testimony. Planning and Development Services (PDS) recommended approval.

**Decision:** Approval, subject to conditions.

**Date of Decision:** August 2, 2010

**Reconsideration/Appeal:** A Request for Reconsideration may be filed with PDS within 10 days of this decision (SCC 14.06.180). The decision may be appealed to the Board of County Commissioners by filing an Appeal with PDS within 14 days of the date of the decision or decision on reconsideration, if applicable (SCC 14.06.120(9)).

**Online Text:** The entire decision can be viewed at:  
[www.skagitcounty.net/hearing examiner](http://www.skagitcounty.net/hearing_examiner)

## **FINDINGS OF FACT**

1. James and Gretchen Lee seek to install a catering commissary kitchen for Double Barrel BBQ in an existing barn as a Home Based Business 3.

2. The property is located at 6819 State Route 9 on Lot 1 of Short Plat PL04-0308, within a portion of SW1/4SW1/4 Sec. 6, T35N, R5E, W.M. The parcel number is P38517. The property is zoned Rural Reserve.

3. The property is on the east side of State Route 9, north of Sedro-Woolley and north of Mosier Road. Access is off of Trinity Lane, a short plat road that serves four lots. The site is approximately 1.76 acres in size, is roughly rectangular in shape and lies in a north-south configuration. It measures 305 feet on the west (along SR 9), 219 feet on the north, 315 feet on the east, and 252 feet on the south. The topography is basically flat. There are no critical areas.

4. On the site are a residence, a personal storage building and a 17,000 square-foot barn. The residence is in the northern part; the personal storage unit is in the middle; the barn is in the southeast corner. A six-foot high wood privacy fence runs along the west and south property lines.

5. In 1995, the previous owners were granted a Special Use Permit for a pet boarding, grooming, and training business as a Home Based Business 2.

6. The applicants operate a catering business, formerly located with the City of Burlington. The business has been moved to the subject site and is currently being operated from the applicants' home. The instant request for approval of a Home Based Business 3 is to relocate the operation into a portion of the large barn.

7. The barn, built in the 1980's, is constructed with wood beams and trusses, is covered with steel siding, and has concrete flooring. The area that will house the business is finished with insulation and drywall. The plan is to use approximately 3,800 square feet of the northern portion of the barn for the business.

8. The business area will include a kitchen (589 square feet), dry storage (736 square feet), client tasting room (266 square feet), equipment storage (672 square feet), along with storage areas for vehicles, trailers and mobile barbecue pits. Four vehicles are used in the business--two 1/2 ton catering vans, one SUV and one stake bed trailer. In addition there are two trailer barbecue pits and a large walk-in cooler.

9. The menu offered includes smoked meats, hot sides, salads, desserts, and non-alcoholic beverages. The onsite business activity will consist of quantity food production,

loading catering jobs, unloading and clean-up of completed jobs, and occasional tasting appointments for potential clients. Parking is available along the fence in the southwest corner of the property.

10. Preparation usually starts in the morning and may not conclude until 10 p.m. at night. Activities on site, however, will normally be limited to two to three hours at a time. The activity level will be dictated by the number of events scheduled, with summer being the most active season. Up to three non-family employees may be scheduled to work at a given time.

11. Deliveries of food and supplies will be in the mornings between 8 and 11 a.m. Deliveries may be three times a week during the busy season and less than once a week in the slower times. There will be occasional parcel deliveries.

12. Garbage pickup by Waste Management is once a week during the busy season and twice monthly in the slower season. The waste water from the kitchen operation is treated by an on-site septic system. The property is served by PUD water.

13. The application was deemed complete as of February 3, 2010. Notice of the application was posted, published and mailed on February 4, 2010. No public comments were received. There was no public testimony at the hearing.

14. Environmental review was conducted pursuant to the State Environmental Policy Act (SEPA). A Mitigated Determination of Non-Significance (MDNS) was issued on April 6, 2010. No comments were received. No appeal was filed. The MDNS conditions are:

- (1) The applicant shall comply with SCC 14.16.840, Performance Standards.
- (2) A written evaluation of the on-site system, to be utilized by the proposed project, shall be submitted and approved prior to scheduling for public hearing.
- (3) The operation shall be in compliance with all Skagit County Health Department regulations.
- (4) The applicant shall comply with the water requirements of Skagit PUD #1.

15. Prior to hearing the required on-site sewage system evaluation was submitted and approved.

16. The application was routed to the relevant County departments for review and comments. The comments are reflected in conditions of approval.

17. The applicants reside on the property. The business operation will be incidental and secondary to the use of the property for dwelling purposes.

18. There will be no outside storage or other exterior indication of the home occupation or variation from the residential character of the property. Vehicles associated with the business can be stored inside the barn.

19. Environmental impacts will be minimal. A gas barbecue smoker will be used. There will be no more air emissions than expected from a residential wood or pellet stove. Noise and odors will be negligible. Traffic impacts will not exceed those of normal residential use. No retail business will occur on site. The tasting sessions for potential clients will be occasional -- perhaps once a month.

20. The proposed use will not adversely affect the neighboring properties and will not change the rural character of the surroundings. The privacy of nearby uses will not be impacted. No conflict with health and safety is likely. The proposed use will be adequately supported by public services and will not create demands on services that cannot be met within existing capacity.

21. The Staff Report analyzes the application in light of the Special Use Permit criteria, including the specific criteria for a Home Based Business 3, and determines that, as conditioned the proposal will be consistent with the criteria. 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.

22. 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 subject matter of the instant proceeding. SCC 14.06.050(1)(b)(ii).

2. The requirements of SEPA have been met.

3. In the Rural Reserve zone a Home Based Business 3 requires a Hearing Examiner Special Use Permit. SCC 14.16.320(4)(l).

4. As conditioned the proposed development will be consistent with the specific criteria for approval of a Home Based Business 3 (SCC 14.16.900(2)(f)), and also with the general approval criteria for a Special Use Permit. SCC 14.16.900(1)(b)(v).

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

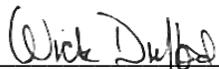
## CONDITIONS

1. The project shall be installed and operated as described in the application materials, except as the same may be modified by these conditions.
2. The applicants shall obtain all other necessary permits and approvals, and shall abide by the conditions of same.
3. The applicants shall comply with the conditions of the MDNS issued on April 6, 2010. (See Finding 14.)
4. The applicants shall comply with all relevant local, state and federal ordinances, statutes and regulations, including but not limited to Chapter 173-60 WAC (noise), and Chapters 173-201A and 173-200 WAC (surface and ground water quality).
5. Prior to commencing operation, a full set of plans for the commercial kitchen shall be submitted. The plans shall include any new appliances being installed, assuming some sort of cook top, burners, grill, broiler, etc., a Type 1 hood, duct and fire suppression system will be required.
6. The Home Based Business 3 shall be limited to 3,800 square feet within the barn.
7. PDS shall be notified within 30 days after any change in ownership of the parcel by the submission of a letter to the Planning Director referencing PL10-0005.
8. Per SCC 14.16.900(3), the applicants shall comply with the annual certification process, acknowledging in writing compliance with the original permit approval, including conditions.
9. All planning related fees, including recording of the decision must be paid within 30 days of receipt of the invoice.
10. The proposed installation shall commence within two years of this approval. If the operation ceases for a period of one year, the permit shall become void.
11. Failure to comply with any condition may result in permit revocation.

**DECISION**

The requested Special Use Permit for a Home Business 3 (PL10-0005) is approved, subject to the conditions set forth above.

**DONE** this 2nd day of August, 2010

  
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Wick Dufford, Hearing Examiner

Transmitted to Applicants on August 16, 2010

See Page 1, Notice of Decision, for Reconsideration and Appeal information.