

NOTICE OF DECISION

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

Applicant: David Zagelow
17656 S. Skyridge Drive
Mount Vernon, WA 98274

Request/File No: Special Use Permit (Home Based Business 3)
PL15-0020

Location: 17656 Skyridge Drive; Skyridge Div. 5, Lot 2; within a portion of
NW1/4ISW1/4 Sec. 13, T34N, R4E, W.M. Parcel # P83200.

Land Use Designation: Comp. Plan: Urban Growth
Zoning: Urban Reserve Residential (URR)

Summary of Proposal: To conduct individual private music lessons within a residence,
Monday through Friday, commencing no earlier than 8 a.m. and no later
than 8 p.m.

SEPA Compliance: Exempt

Public Hearing: April 22, 2015. Testimony by County and Applicant. Ten residents of
the neighborhood testified --eight were opposed. The Examiner visited
the site. Planning and Development Services (PDS) recommended
approval.

Decision/Date: The application is approved, subject to conditions. May 14, 2015.

Reconsideration/Appeal: Reconsideration may be requested within 10 days of this decision.
Appeal is to the Board of County Commissioners by filing with PDS
within 14 days of the date of decision, or decision on reconsideration
if applicable.

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

FINDINGS OF FACT

1. David Zagelow (Applicant) seeks a Special Use Permit for a Home Based Business 3 in order to provide music lessons at his residence at 17656 S. Skyridge Drive.

2. The home is located in Skyridge Division 5, Lot 2, within a portion of the NW1/4SW1/4 Sec. 33, T34N, R4E. W.M. The parcel number is P83200.

3. The Comprehensive Plan designation is Urban Growth and the zoning is Urban Reserve Residential.

4. Special Use Permits are subject to the following general approval criteria under SCC 14.16.900(1)(b)(v):

- (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, heat, vibration, air and water pollution impacts on surrounding, existing or potential dwelling units, based on performance standards of SCC 14.18.840.
- (D) The proposed use will not generate intrusions on privacy of surrounding uses.
- (E) The proposed use will not cause potential adverse effects on the general public health, safety, and 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 or services and will not adversely affect public services in the surrounding areas, or conditions can be established to mitigate adverse effects on such facilities.
- (I) The propose use will maintain the character, landscape and lifestyle of the rural area. For new uses, proximity to existing businesses operating via special use permit shall be reviewed and considered for cumulative impacts.

5. A Home Based Business 3 is subject to the following additional approval criteria under SCC 14.16.900(2)(f):

- (i) Is carried out by a member or members of a family residing in the dwelling and may include up to 3 additional employees;
- (ii) Is clearly incidental and secondary to the use of the property for dwelling purposes;
- (iii) The business activity may be conducted in buildings other than the dwelling; provided, that the size of such building shall be consistent with the residential area and such building is properly permitted for the use;
- (iv) Have no outside storage nor other exterior indication of the home occupation or variation from the residential character of the property with the exception of 1 sign not to exceed 4 square feet, provided such sign shall not be illuminated.
- (v) Does not create a level of electrical interference, line voltage fluctuation, noise, vibration, smoke, dust, odors, heat, glare, traffic and other environmental impacts beyond that which is common in a residential area;
- (vi) Does not create a level of parking demand beyond that which is normal to a residential area;

(vii) If established after June 1, 1997, shall not be used as justification for future Comprehensive Plan amendment and/or rezone requests.

6. Skyridge is a large development with many divisions. The site of the proposed use is at the south end of South Skyridge Drive, near a dead end. Getting to the site involves uphill driving.

7. The neighborhood is developed with attractive, well-maintained single-family homes. The subject property is approximately .72 acre in size and rectangular in shape. The primary use of the home is as the residence of the applicant and his family. The house fits into the overall residential setting. It has a daylight basement design. It is located 30 feet from the front property line, 85 feet from the each side property line and 50 feet from the rear property line. The adjoining residences are on lots ranging from .4 acre to 3.38 acres.

8. The subject residence is located at the end of a culdesac to which a 60-foot easement for ingress and egress is attached. The driveway is circular with parking areas to the north and south. The applicant's lot is served by an onsite septic system and public water. .

9. The home based business for which permissions is sought has been operated at the subject site since last October. A Special Use Permit has been applied for in order to legitimize the operation at this location.

10. The applicant and his wife run a music lesson business, called Evergreen Music Studios, which operates at other locations as well. The use of the subject site constitutes about 25% of the business. At the residence, the business is clearly incidental and secondary to the use of the property for dwelling purposes.

11. At full operation, approximately 40 students are given individual lessons per week at the subject site, varying in time from a half hour to an hour each. Most of the time only one lesson is being given. A few times a week two lessons occur at the same time. More than two lessons are never given simultaneously. There are no group sessions.

12. In addition to the applicant and his wife, two others teach at the site. These outside teachers each teach only one day per week. The policy is for children under 16 to be accompanied by an adult. The current hours are from about 8 a.m to a closing at 9 p.m. on weekdays only. During June and July the business operates at a significantly reduced level. In August the business is shut down.

13. There is parking space for seven vehicles on the site. Because the students come and go during the day and with only two outside teachers, there is more than adequate parking. Generally only one or two cars are on the property at any time.

14. The lessons are given within the enclosed house. Acoustic instruments only are used. There is no amplified sound. The two studios are both in the downstairs portion of the house. There is seating in each for parents. Access is by a gravel walkway from the parking area. The County Staff testified that music is barely audible outside the house.

15. There are no signs on site identifying the business. A couple of small non-illuminated signs denote parking areas.

16. The application was submitted on January 16, 2015 and deemed complete on February 27, 2015. A Notice of Development Application was posted on the subject property, published in a

newspaper of general circulation and mailed to property owners within 300 feet of the site on March 5, 2015.

17. Eighteen comment letters were received from residents of the neighborhood. All but two of these opposed approval of the Special Use Permit. The overriding concern of those in opposition was the additional traffic generated by the business. The fear expressed was that the road is relatively narrow and without sidewalks, posing a danger in particular to pedestrians.

18. The street leading to the applicant's residence is a paved two-lane county road which winds up to the site. The County Department of Public Works reviewed this project and determined that the amount of traffic generated by this proposal would not have a negative impact on the road system. Based on the information provided by the applicant, the Staff estimated that seven vehicles would likely be visiting the site per weekday and that these would be dispersed throughout the day, with only one or two cars coming in at one time. There is no record of injury from use of the road by persons approaching or leaving the business. The applicant testified that in ten years of operation, the music lesson business as a whole has received no complaints.

19. The Examiner has determined that the concern about traffic in this suburban residential setting would be to some degree alleviated by limiting the hours of operation of the studio, calling for no lessons after 5 p.m. In addition, the studio should be limited to its present mode of operation (single-student lessons) and its present number of students. An explicit condition should be added requiring closure of the business on snow days.

20. If operated with these limitations, the Examiner finds that the business can go forward at the specified location without undue risk of adverse effects on public health and safety.

21. The Examiner is persuaded that noise from the operation does not present a substantial problem. Further, the record does not support a finding of adverse impacts on drainage, property values or residential privacy.

22. The Staff reviewed the application in light of the general criteria for approval of a Special Use Permit and the specific criteria for approval of a Home Based Business 3. They concluded that the operation meets these criteria. With the additional conditions mentioned, the Examiner concurs in this evaluation 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 this proceeding. SCC 14.06.050(1)(b)(ii).
2. The proposal is exempt from the procedural requirements of the State Environmental Policy Act (SEPA).
3. A Home Based Business 3 is allowed as a Hearing Examiner Special Use in the Urban Reserve Residential zone. SCC 14.16.370(4)(j).
4. As conditioned the proposal meets the general criteria for approval of a Special Use Permit. SCC 14.16.900(1)(b)(v).

5. As conditioned the proposal meets the special criteria for approval of a Home Based Business
3. SCC 14.16.900(2)(f).
6. Any finding herein which may be deemed a conclusion is hereby adopted as such.

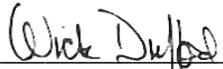
CONDITIONS

1. These conditions apply solely to the Home Based Business 3 operated at 17656 S. Skyridge Drive.
2. The business shall be carried out as described in the application materials, except as modified by these conditions.
3. The applicant shall obtain any other required approvals and shall abide by the conditions of same.
4. The applicant shall comply with all applicable state and local regulations, including but not necessarily limited to, Chapter 173-60 and SCC 14.16.840 (noise, light, vibration) and Chapters 173-200 and 173-201A WAC (surface and ground water quality).
5. Operations shall be limited to weekdays. Hours of operation shall be limited to between 8 a.m. and 5 p.m.
6. The business shall not operate on days when snow presents a hazard to driving.
7. No group lessons shall be given.
8. The business at this location shall not increase the number of students above the number served there at the time of this approval.
9. The County Planning and Development Services Department (PDS) shall be notified within 30 days after any change in ownership of the parcel through a letter submitted to the Planning Director referencing permit number PL15-0020.
10. All planning related fees must be paid within 30 days of receipt of the invoice.
11. If the operation ceases for a period of one year, the permit shall be void.
12. Per SCC 14.16.900(3), the applicant shall comply with the annual certification process, acknowledging in writing compliance with the original permit approval including all conditions.
13. Failure to comply with any permit condition may result in permit revocation.

DECISION

The requested Special Use Permit for a Home Based Business 3 (PL15-0020) is approved, subject to the conditions set forth above.

DONE, this 14th day of May, 2015.



Wick Dufford, Hearing Examiner

Transmitted to Applicant and parties of record May 14, 2015.

See Notice of Decision, Page 1, for appeal information.