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Kathy Hill, Skagit County Auditor

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AFTER RECORDING RETURN TO:
SKAGIT COUNTY HEARING EXAMINER
302 SOUTH FIRST STREET
MOUNT VERNON, WA 98273

DOCUMENT TITLE: ORDER ON SPECIAL USE
PERMIT SP 99 0101

HEARING OFFICER: SKAGIT COUNTY HEARING EXAMINER

APPELLANT: TROY and CINDI PLENDL

ASSESSOR PARCEL NO: P16542

ABBREVIATED LEGAL DESCRIPTION:

Located at 19889 Cedardale Road, Mount Vernon, WA; a portion of Section 8, Township 33 North, Range 4 East, W.M., Skagit County, Washington.

SKAGIT COUNTY HEARING EXAMINER

STATE OF WASHINGTON

In the Matter of the Application of)	
TROY PLENDL)	SP 99-0101
)	
For a Special Use Permit to Operate a)	FINDINGS OF FACT,
Horse Riding Arena and Boarding Facility)	CONCLUSIONS OF LAW
Including Feed and Tack Supplies. The)	AND DECISION
Project involves Construction of an 18,096)	
Square Foot Agricultural Accessory)	
Structure to Serve as an Indoor Arena)	
With Associated Boarding Stables.)	
)	

PROCEDURE

This matter relates to an application for a Special Use Permit filed by Troy Plendl. The application came on for public hearing on September 22, 1999, after due notice. The Planning and Permit Center's Staff Report was presented by Brandon Black. The applicant was represented by David Hough, land use consultant. Members of the public were given an opportunity to testify. There was no public testimony.

Fifteen exhibits, including the application, site plan and staff report, were included in the record. Public comment was received through two letters from the Friends of Skagit County. The entire record has been reviewed and considered. On the basis thereof, the following is entered:

FINDINGS OF FACT

1. Troy Plendl (applicant) seeks special use approval for the operation of a horse riding arena and horse boarding stables at 19889 Cedardale Road. The property is a tract of approximately 20 acres on which the applicant presently raises horses. The purpose of the proposal is to establish and run an arena and associated boarding stables to complement the present operations on site.

2. The site is zoned Agriculture Natural Resource Land (A-NRL). This is consistent with the Comprehensive Plan designation for the area. The property lies on the east side of



Cedardale Road and just north of Johnson Road, within a portion of Sec. 8, T33N, R4E, W.M. The property measures approximately 1,320 feet east-west and approximately 660 feet north-south.

3. A proposed indoor arena and stables would be housed in an approximately 18,096 square foot agricultural accessory structure (hereafter called "barn/arena"). The operation would include feed and tack supplies, as well as horse boarding and riding facilities. A 100' by 200' outdoor arena is contemplated along the south side the site for the new barn/arena.

4. The residence and several existing outbuildings are located along Cedardale Road in the northwest corner of the property. The new barn/arena would be built in the area just southeast of the house, about 120 feet below the north property line and 200 feet in from the west property line. A parking area, accessed from Cedardale Road would be built in front of the new accessory structure. It would be approximately 220 by 450 square feet in size.

5. The plans are for the proposed operation to be family run, with one additional employee. The applicant has indicated that the primary use of the parcel for raising horses will not change. The stables and arena will be secondary to the primary use. There will be no outside storage or other exterior indication of the boarding/riding business beyond those permitted outright in the agricultural zone. No sign is presently planned, but one may be added in the future.

6. In connection with the proposed operation, the applicant has submitted a manure management plan which details a wash rack connected to a french drain. A conveyor system is to be installed along the stalls in the arena building to facilitate cleaning. The system would carry manure to a site northeast of the arena building. The manure would then be spread over the pasture on a regular basis.

7. The balance of the subject property is an open flat grass field, line with agricultural ditches. The areas north, east and south of the subject acreage are mostly open agricultural fields currently under production. On the west, across Cedardale Road, is Interstate 5. Other than the applicant's home, there are no residences directly adjacent to the proposal. The project will not intrude on the uses of other properties.



8. The site is served by the Lower Cedardale Water Company which has given its approval for the construction of a single restroom on the property. This water company is apparently not an officially approved source at present. Therefore, until the source is approved, portable toilets, with handwashing stations built in, must be available on site during riding events in order to satisfy the Water Resources and Environmental Health divisions. The applicant is willing to comply with a condition to this effect, and to restrict use of the arena's plumbed restroom to use by the Plendl family. If a public bathroom is approved at some point, Environmental Health will require that the septic system be upgraded or a new one added.

9. Skagit County Drainage District No. 17 reviewed the drainage plans for the proposed facility and concluded that the district's ditches in the area are adequate to handle the Plendl project. On review of the parking and drainage plans, Public Works recommended approval, provided that no parking be allowed on the County right of way, and that temporary erosion/sedimentation control be provided during construction.

10. The County Fire Marshall expressed no objections to the proposal, so long as steps are taken to have the required rural fire flow of 750 gpm per hour available.

11. The application was routed to the Conservation Futures Advisory Committee (CFAC) for review. CFAC acts as an informal review board, providing guidance for applications that are located on A-NRL designated lands. In this case the CFAC agreed unanimously not to recommend approval of the application.

12. The CFAC viewed the proposed use as inappropriate for the A-NRL zone because it is not soil dependent. The increase in non-tillable area and impermeable surface was thought to be excessive. The CFAC also felt that the proposal was inconsistent with Comprehensive Plan policies for fostering agriculture. The committee feared that the recreational and retail nature of the operation would detract from agricultural production in the area and perhaps to increase pressure for the conversion of neighboring farmland to non-agricultural use. The committee noted that the location, in the near-freeway Conway area, is already under development pressure.



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13. A site assessment was prepared and no jurisdictional wetlands were found to be located within the project area. The property is located within an AO designated flood hazard area per FIRM Map 530151 0425C, effective date January 3, 1985.

14. After environmental review, a Mitigated Determination of Non-Significance was issued for the project on March 11, 1999. The MDNS set forth six conditions of approval for the proposed use. The MDNS was not appealed.

15. Pursuant to Skagit County Code (SCC)14.04.112, "animal and poultry husbandry" are uses permitted outright in the zoning district. The list of allowed accessories includes "single family dwellings" and "accessory buildings including barns, storage buildings for crops and feed and equipment sheds or other structures accessory to a permitted use."

16. Under SCC 14.04.150(2) unclassified special uses are those specifically listed as such and "other uses determined by the Administrative Official to be similar." The special uses listed for the Agriculture-NRL zone do not include riding arenas or stables as special uses, but do include "home occupations." The Staff reviewed the definition of "Home Occupation-Special Use" in SCC 14.04.030(40) and determined that the instant request is similar to a home occupation.

17. In the present case, the large accessory structure proposed is clearly permitted, so long as it is "accessory to a permitted use." If the proposal is treated as similar to a home occupation the "permitted use" hurdle is crossed. The remaining task, then, is to analyze the application for consistency with the extra criteria provided for determining whether a special use may be allowed. According to SCC 14.04.150(3)(d), these are:

- (i). Conformity to the Comprehensive Plan in respect to the compatibility with existing and future land use and circulation;
- (ii). The zoning of subject property and surrounding properties and the conformance of the application with the zoning ordinance.
- (iii) Automobile or truck traffic and parking and its effect on surrounding community;
- (iv) Noise, odors, heat, vibration, air and water pollution potential of the proposed use;
- (v) Intrusion of privacy;
- (vi) Design of site and structures as to possible effects on the neighborhood;
- (vii) In addition to possible effects on the neighborhood in which the use



is to be located, the potential effects on the region shall be considered;
(viii) Potential effects regarding the general public health, safety and general welfare.

18. The Planning and Permit Center's Staff Report analyzes the subject application for consistency with the above requirements. The Examiner concurs in this analysis and adopts the same. The Staff Report is incorporated herein as though fully set forth.

19. By letter, the Friends of Skagit County opposed the approval of a special use permit for this proposal because the project is in a Natural Resource Land designation. The Friends pointed out the provision of SCC 14.04.150(1) which requires a finding, prior to permitting a special use on natural resource lands, that the special use will not "interfere with the resource activity." The Friends maintained that covering resource land with an 18,096 square foot structure is not acceptable because it will interfere with the resource activity that is suitable for resource lands.

20. The uses permitted outright in the A-NRL zone are not limited to agriculture in the sense of the growing of crops. The complete list of permitted uses is: "Agriculture; farming; dairying; pasturage; apiculture, horticulture; floriculture; animal and poultry husbandry; cultivation, management and harvest of any forest crop." The "resource activity" which the zone is designed to preserve encompasses everything on this list. The proposed special use (arena and boarding stables) complements an existing primary animal husbandry use. Therefore, the Examiner finds that the special use will not interfere with the resource activity.

21. Moreover, with the clustering of this proposed arena and boarding stable facility near the present residence, a minimum amount of agricultural land will be lost. The parking lot will occupy only approximately an acre. The area occupied by the accessory structure will be comparable to that covered by a barn for other agricultural uses. The application states: "The special use permit is not necessary to economically justify construction of the barn. The barn is necessary for our current operation.

22. At the hearing no one testified in opposition to the proposal. The applicant did not object to the conditions proposed by Staff, but added a suggested condition allowing public use of the restroom in the arena, when and if the water source is approved.



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 subject matter of this proceeding. SJCC 14.01.025(2).

2. The requirements of SEPA have been met.

3. The proposed facility is not permitted outright in the zone. SCC 14.04.112. Thus, to be allowed, it must be found among the unclassified special uses. The Friends of Skagit argue that "riding clubs or stables" were not intended to be among the special uses permitted in the A-NRL zone. The Staff gets around the absence of any explicit mention of the proposed use in SCC 14.04.150(m) by finding that it is similar to a home occupation – a use which is listed.

4. Under the code criteria, SCC 14.04.030(40), the Examiner believes that whether this proposal qualifies as a home occupation is a close question. However, the Permit Center is the principal implementing agency for the zoning code. Lacking any specific legislative history, the Examiner has no basis for contradicting the analysis of the Staff Report under the facts here (Ex. 8, p. 6, & 7). He therefore defers to the Staff's interpretation on this question.

5. The Examiner has found nothing in the Code that requires special uses on agricultural natural resource lands to be soil dependent. The primary permitted uses are not all soil dependent. Further, the accessory structures that support such uses necessarily involve in every case eliminating some land from the capability for crop production. When an accessory structure, such as a milking barn, is erected as a part of a dairying operation, the structure is not objectionable on grounds that it takes away land that could otherwise be used for pasture. In this regard accessory structures for special uses do not differ from accessory structures for other "permitted" uses.

6. The special limitation on such uses (and therefore on such structures) that applies on natural resource lands is that they not "interfere with the resource activity." SCC



14.04.150(1)(c). This is a question of judgment and degree. In this case, the primary use (animal husbandry) appears to be benefited, not interfered with.

7. Accordingly, the Examiner concludes that the applicant has been his burden of proof and that the approval criteria of SCC 14.04.150(3) are met.

8. The Staff has recommended reasonable conditions of approval.

9. The proposal should be approved, subject to the following conditions:

a. The applicant shall construct and operate the project in accordance with plans and terms set forth in his application.

b. The applicant shall obtain all necessary land use approvals from the appropriate jurisdiction.

c. The permit shall be void if not started within one (1) year of the date of this order.

d. If the use is abandoned for a period of one (1) year, the Special Use Permit shall be void.

e. If the operations at any time cease to comply with the definition of home occupation, the Special Use Permit shall be void.

f. The riding arena will be for public use, therefore, the required Rural Fire Flow will be 750/gpm/hr.

g. The Planning and Permit Center shall be notified within 30 days after any change in ownership of the parcel.

h. One sign may be provided. The applicant will be allowed to have a 4 x 8 square foot sign, however, only a 4 square foot portion of that sign may be used to advertise the riding arena and tack supply portion of the home occupation.

i. The applicant shall comply with the conditions outlined in the MDNS.

j. No parking shall be allowed on the County right of way. Temporary erosion/sedimentation control will be provided during construction.



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k. Unless an approved water source is available, the applicant shall provide portable toilets, with handwashing stations built in, on site during any riding events/public use. The restroom proposed for the barn/arena shall be designated "For Private Use Only" and shall be used only by residents of the site.

l. Any public drinking water provided shall be from an approved source. When and if the property is served by an approved source, the restroom in the arena may be utilized by the public in place of portable toilets. However, prior to any such use, approval from Environmental Health shall be obtained as to the adequacy on-site sewage disposal facilities. Any inadequate facilities may have to be upgraded, or new facilities provided.

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

DECISION

The requested Special Use Permit is **APPROVED**, subject to the conditions set forth in Conclusion 9 above.

SKAGIT COUNTY HEARING EXAMINER



Wick Dufford, Hearing Examiner

Date of Action: October 18, 1999

Copy transmitted to Applicant October 18, 1999

RECONSIDERATION/APPEAL

This decision shall become final unless a request for reconsideration or appeal is filed. A request for reconsideration shall be filed with the Hearing Examiner within ten (10) days from the date of this decision. An appeal shall be filed with the Board of County Commissioners within fourteen (14) days from the date of this decision, or if reconsideration has been requested, within fourteen (14) days from the decision after reconsideration.

