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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 REQUEST SU 01 0001

HEARING OFFICER: SKAGIT COUNTY HEARING EXAMINER

APPELLANT: LINDA OPDYCKE

ASSESSOR PARCEL NO: P20603

ABBREVIATED LEGAL DESCRIPTION: The subject property is located at 15462 Sneeoosh Road, LaConner, WA; within Section 21, Township 34 North, Range 2 East, W.M., Skagit County, Washington.

SKAGIT COUNTY HEARING EXAMINER
STATE OF WASHINGTON

In the Matter of the Application of
LINDA OPDYCKE

SU 01-0001

For a Special Use Permit for the Operation
Kennel/Boarding Facility for Up to
40 Dogs, Located on Kiket Island.

**FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND DECISION**

THIS MATTER, an application for a Special Use Permit, came on regularly for hearing on August 8, 2001, upon due notice. Brandon Black appeared for the Planning and Permit Center. Linda Opdycke represented herself. Members of the public were given an opportunity to be heard.

Based on the testimony taken, the exhibits admitted and the argument made, the following is entered:

FINDINGS OF FACT

1. Linda Opdycke (applicant) seeks a permit to authorize the installation and operation of a kennel/boarding facility for dogs. The location is at 15462 SneeOosh Road on the Kiket Island peninsula west of La Conner. The proposed facility would be on uplands designated as Rural Reserve.
2. The property constitutes approximately 94 acres within a portion of sec 21, T34N, R2E, WM. The parcel is accessed via an existing 20-foot wide gravel driveway approximately one mile in length from SneeOosh Road. There is an existing residence on the southwest portion of the island. The parcel is served by a domestic water well and an individual on-site septic system.
3. The proposed kennel operation will be located approximately 300 feet to the north of the residence on an existing gravel road area. The boarding area will consist of 16 free-standing chain link kennels with insulated doghouses and roof covers. Up to 40 dogs can be accommodated. A 10' by 12' pre-built structure located adjacent to the kennels will be used for an office.
4. The parcel is bounded on three sides by Similk Bay. The island area is heavily wooded and the kennel facility will be approximately 300 feet from the water, fully concealed from outside views by vegetation. The distance to the next neighbor is over a mile, meaning that noise from the operation is unlikely to bother anyone.
5. Nevertheless, the applicant plans to give a lot of personal attention to the dogs in residence and does not anticipate that they will be very noisy.



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6. Traffic associated with the facility will be minor. Most of the business will come from the Seattle area. The dogs will be picked up and then delivered back home by a van operated by the kennel. The average stay will be about two weeks. Individual deliveries will be few. There may be up to three employees. Outside employees will arrive about 8:00 a.m. and depart from 12 to 4:00 p.m.

8. Cedar shavings will be used to capture urine and other waste and there will be multiple daily clean-ups of the pens.

9. The application was routed to various County offices and utilities. None had comments except the Skagit County Health Department. The Health Department had concerns about the bagging and disposal of solid waste and cedar shavings.

10. Health has since received a letter from Sno-Valley Farms indicating that they will take the cedar shavings and use them on conservation reserve programs (CREP) within the County. (The Skagit County Natural Resource Conservation Service has approved the use of cedar shavings for CREP projects.) A letter from the Waste Management transfer station states that the station will accept animal waste, if it is double bagged and tied at the top.

11. During review of the application, the Swinomish Tribe raised questions about the protection of archaeological resources on site. Archaeological investigation shows that the project is some distance from known middens on the property and that it will have no effect on them. After review of archaeological information, the Tribe on June 27, 2001, advised that it had no further concerns.

12. There are no critical areas within 200 feet of the project site. The property is not located within a designated flood hazard zone. A Determination of Non-Significance (DNS) under the State Environmental Policy Act (SEPA) was issued for the project on June 28, 2001. The DNS was not appealed.

13. There was no public testimony at the hearing. The applicant advised that her nearest neighbor approves of the project.

14. The general criteria for Special Use Permit Approval are set forth in SCC 14.16.900(2)(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, odor, heat, vibration, air and water pollution impacts on surrounding, existing, or potential dwelling units, based on the performance standard of SCC 14.16.840.
- (d) The proposed use will not generate intrusions on privacy or surrounding uses.



(e) Potential effects regarding the general public health, safety, and general welfare.

(f) For special uses in Industrial Forest-NRL, Secondary Forest-NRL, Agricultural-NRL, and Rural Resource-NRL, the impacts on long-term natural resources 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 to the surrounding areas, or conditions can be established to mitigate adverse impacts on such facilities.

15. The Staff Report herein thoroughly analyzes the proposal against these criteria and concludes that, as conditioned, the project will be consistent with all of them. The Examiner concurs in this analysis and adopts the same. Staff Report is incorporated herein as though fully set forth.

16. 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 facility meets the definition of "kennel" under the code. SCC 14.04.020. Pursuant to SCC 14.16.320(4)(s), a "kennel" in a Rural Reserve district is approvable by the Hearing Examiner as a Special Use.

4. The findings support a conclusion that the proposal is consistent with the criteria for granting a Special Use Permit (SCC 14.16.900(2)(b)(v)), if the following conditions are imposed:

(1) The permit is limited to the scope of the application. The installation and operation shall conform substantially with the drawings and other project information submitted with the application.

(2) The applicant shall obtain all other required permits.

(3) Further review will be needed by the Planning and Permit Center if any major change occurs in the size or intensity of the use outlined in the application.

(4) Solid waste shall be bagged and taken to a County solid waste facility. The solid waste shall be at least double bagged and tied at the top. If such waste is disposed of with regular household waste and picked up by a solid waste handler, it shall be triple bagged to ensure that workers are not exposed to dog waste.

(5) Used cedar shavings shall be deposited with the Natural Resource Conservation Service, or other approved recipient, for use in CREP projects.

(6) Compliance with the noise standards of Chapter 173-160 is required.

(7) Failure to comply with any of the conditions of approval may be grounds for revocation of the permit.

5. 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 4 above.

Wick Dufford

Wick Dufford, Hearing Examiner

Date of Action: August 20, 2001

Copy Transmitted to Applicant: August 20, 2001

Attachment: Staff Report



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**SKAGIT COUNTY PLANNING AND PERMIT CENTER
FINDINGS OF FACT**

HEARING AUTHORITY: SKAGIT COUNTY HEARING EXAMINER

HEARING DATE: AUGUST 8, 2001

APPLICATION NUMBER: SPECIAL USE REQUEST PL01-0001

APPLICANT: LINDA OPDYCKE

ADDRESS: P.O. BOX 1052
LACONNER, WA. 98257

PROJECT LOCATION: Located at 15462 Sneeoosh Road, LaConner, WA. within a portion of Section 21, Township 34N, Range 2 East W.M. Skagit County, Washington.

PROJECT DESCRIPTION: Special Use request PL01-0001 for the operation of a kennel/boarding facility for up to 40 dogs.

ASSESSOR'S ACCOUNT NUMBER: 340221-0-027-0010, P20603

ZONING/COMPREHENSIVE PLAN: The subject parcel is located within a Rural Reserve (RRv) district as identified in the Comprehensive Plan and associated maps adopted July 24, 2000.

RECOMMENDATION: The Planning and Permit Center recommends **approval** of the request with conditions.

EXHIBITS:

1. Staff findings 1-15
2. Application dated March 7, 2001
3. Site Plan
4. Assessors section map
5. Letter of completeness dated March 20, 2001
6. Notice of Development application published March 22, 2001
7. Determination of Nonsignificance published April 12, 2001.
8. Re-Issued DNS published June 28, 2001.

CORRESPONDANCE:



1. Letter received April 6, 2001, in support of the proposed project, from Mary Carney, an adjacent neighbor, at 15466 Sneeoosh Road, LaConner.
2. Correspondence from the Swinomish Tribal Community, P.O. Box 817 Moorage Way, LaConner, WA. 98257, dated April 25th and 27th, 2001. The letters were in regards to the archeological information on site. The concerns were addressed and resolved.

STAFF FINDINGS:

1. The subject property is zoned/designated as Rural Reserve (RRv) as indicated in the Comprehensive Plan and associated maps adopted July 24, 2000. The application was determined to be complete on March 20, 2001 and is vested under the Comprehensive Plan and zoning regulations in effect at that time. A letter of completeness was issued as per Section 14.06.100 of the Skagit County Code.
2. A Notice of Development Application was posted on the subject property and published in a newspaper of general circulation on March 22, 2001 as required by Section 14.06.150 of Skagit County Code.
3. The application has been reviewed in accordance with the State Environmental Policy Act guidelines (WAC 197-11 and RCW 43.21C). A Determination of Nonsignificance (DNS) was issued on April 9, 2001. Based on comment received from the Swinomish Tribal Community, the DNS was withdrawn on May 8, 2001. The issues raised by the tribe were addressed and the threshold determination (DNS) was re-issued on June 25, 2001 and became effective following the fifteen-day comment period and the fifteen-day appeal period ending on July 27, 2001.
4. The subject parcel was reviewed with the respect to the Skagit County Critical Areas Ordinance 14.24 of the Skagit County Code. Staff comments indicated that there were no critical areas observed within 200 feet of the proposed project site. Critical areas staff recommended approval without conditions.
5. The subject property is not located within a designated flood hazard zone as identified by FEMA.
6. The subject property is approximately 94 acres in size located off of Kiket Island Road, off of SneeOosh road. Kiket Island is a peninsula, surrounded by Similk Bay and located west of the town of LaConner. The developed area of the island is located on the far west end, approximately one (1) mile west of SneeOosh Road. The existing residence is located along the southwest portion of the island and the proposed kennel operation will be located approximately 300 feet to the north of the existing residence on an existing gravel road area. The proposal is to utilize a 10 x 12 square foot, pre-built structure, for an office that is to be located adjacent to the kennel area, and the kennel area is to consist of sixteen (16) free standing chain link kennels, with insulated doghouses, with the capacity to house



up to 40 dogs. The parcel is access via an exiting 20-foot wide gravel driveway, approximately 1 mile in length from SneeOosh Road. The parcel is serviced water from an exiting well located approximately 500 feet to the east of the existing residence and the parcel utilizes an individual on-site septic system.

7. The surrounding area is Similk Bay and the island is primarily wooded. The surrounding area, inland to the east, is currently rural and residential in nature with natural vegetation and scattered residences.
8. The applicant is requesting a Special Use Permit to allow the operation of a Kennel/boarding facility for up to 40 dogs. The proposed operation consists of 16 freestanding chain link kennels that have insulated doghouses and roof covers. The proposal includes up to three (3) employees for the daily care of the dogs. The employees would come around 8:00 a.m. and leave anywhere from 12 – 4 p.m. Skagit County Code Section 14.04.020 defines a Kennel as “a place where 4 or more dogs and/or cats are temporarily boarded for compensation and may be bred for compensation. Puppies and kittens under 16 weeks old are not included in this quantity.” Further, Skagit County Code Section 14.16.320 (4)(s) outlines Kennels as Hearing Examiner special use permit within a Rural Reserve (RRv) designated area.
9. The application was reviewed by the Skagit County Department of Public Works. Public Works had no comments or concerns with the project proposal.
10. The application was routed to the Fire Marshals Office for review. The Fire Marshal had no concerns with the proposal.
11. The Water Resource division of Skagit County Planning and Permit Center reviewed this application. Water Resources had no comments or concerns with the proposal.
12. The application was routed to Skagit County Environmental Health Specialist for review. Environmental Health indicated that if there is no plumbing in the building, then septic is not an issue. If plumbing is going into the office, then appropriate septic permits will be required. Staff notes that the proposal does not include plumbing the office structure, therefore, no further review is required.
13. The application was routed to the Skagit County Health Department for review. The Health Department comments are as follows. (1) “Solid waste bagged up and taken to the dump: The solid waste will need to be double bagged and possibly triple bagged. If this is put out with their regular household waste that is picked up by Waste Management Inc., we need a letter from Waste Management Inc. that they have made arrangements for this. There can be concerns about exposing waste transport workers to dog waste, and we need to know that they have cleared this with Waste Management Inc..” (2) “We need a letter from Natural Resource



Conservation Service verifying they are willing to take the cedar shavings for re-use."

Staff notes that since the time of initial review by the Skagit County Health Department a letter has been received from Sno-Valley Farms indicating that the cedar shavings will be utilized on conservation reserve programs (CREP) within Skagit County. Personnel from Skagit County NRCS have approved the use of the cedar shavings for CREP projects. Further, a letter from the Waste Management transfer station manager, Brian Stephan, has been received which stated, "This is to inform you that we will accept animal waste at the Skagit County Transfer station. We would however give the following restrictions on its disposal at our site for sanitary reasons, we request that the waste be double bagged and tied at the top. Other than that there should be no problem of its acceptance."

14. The application was routed to the Swinomish Tribal Community pursuant to the 1998 Memorandum of Understanding for review. The Swinomish Tribal Community submitted a letter dated April 27, 2001 identifying concerns with the proposal due to known archaeological sites on the island and requesting that the DNS be withdrawn until further review can be conducted. Staff withdrew the DNS at that time and met with staff from the Swinomish Tribal Planning Department to address their concerns. An archaeology report was submitted and reviewed by the Swinomish Tribal Community and on June 27, 2001 the Tribal Planning Department submitted a follow up letter indicating that their department had finished review of the proposal and had no additional concerns. Staff re-issued the threshold determination (DNS) on June 28, 2001.
15. Section 14.16.900 Special Uses of the Skagit County Code states that certain items will be reviewed when approving or denying Special Use Permits. Those items are as follows:
 - A. The proposed use will be compatible with existing and planned land use and comply with the Comprehensive Plan.

The Skagit County Comprehensive Plan does not specifically provide policies that either support or oppose the proposed project. However, Chapter 12 of the Skagit County Comprehensive Plan adopted July 24, 2000 titled the "Economic Development Element", outlines a section titled "Employment". Goal A of this chapter states: "Create and maintain diverse employment opportunities that meet the changing income needs of Skagit County residents. Also under this Chapter, "objective #1" lists:

A-1: Facilitate the creation and retention of family wage jobs to meet the needs and demands of Skagit County Households. And,

A-2: Encourage diverse job options and entrepreneurial opportunities for persons interested in full-time and part-time employment or desiring to own their own business. And,



A-3: Encourage educational opportunities for residents of all ages to develop and upgrade skills required for employment, advancement and entrepreneurship.

Policy 12A-1.3 of Chapter 12 states:

Home occupations that are consistent with the character of adjoining properties and neighborhoods will be accommodated.

B. The proposed use complies with Skagit County Code.

The subject parcel is zoned Rural Reserve (RRv) as well as surrounding parcels. Per Skagit County Code section 14.16.320 Kennel proposals require a Hearing Examiner Special Use permit approval within Rural Reserve zones.

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.

There is no indication that the proposal will cause any electrical interference, line voltage fluctuation, noise, vibration, smoke, dust, odors, heat, glare, traffic or other environmental impacts beyond that which is common to a residential area. The site is extremely isolated from the surrounding area. The nearest neighbor is approximately one mile away and the location of the kennel site is in a area that is surrounded by heavy vegetation which will act as a noise buffer and greatly reduce any potential impact.

The applicant has indicated that the noise will be minimal due to the few number of dogs that will be on site as well as the extra care given to each dog. The applicant further indicated their site is one mile from the closest neighbor and there are dense woods and a large hill of rock and trees behind and between the kennel site and the easterly neighbor. Odors will not be a problem as the kennels are cleaned regularly and the fresh clean air is present. The applicant stated she cares very much about the peace, quiet, and cleanliness not only for the area and the property, but also for the dogs. They have chosen to live where they do because of the peace and serenity it provides. The applicant further stated, "it is our top priority to provide a clean, happy, and quiet environment when the dogs are in our care. We walk the dogs throughout the day and spend a lot of one on one time with them. Because of our philosophy and extensive interaction with the dogs, we do not have overly anxious or vocal dogs because thy have had exercise and are attended to which makes a happy dog. Additionally, because the dogs are close to our home they feel and are apart of our family; they are not left alone to negative attention-getting devices."

D. The proposed use will not generate intrusions on privacy of surrounding uses.



The proposal will not generate intrusions on the privacy of surrounding uses. The parcel is approximately 94 acres in size and located approximately one mile from the nearest neighbor. The main driveway is gated at SneeOosh Road with a large chain link fence that includes signage intended to prevent trespass from unwanted visitors.

The applicant has indicated that there will be no negative impact whatsoever on the public. The parcel is 94 acres in size and one mile from the nearest neighbor so there will be no impact. The applicant further indicated that there is no other property to trespass on to and the employees will know where the boundaries are, which will also be a mile away from where they are working.

E. Potential effects regarding the general public health, safety, and general welfare.

There will be no effects on the general public health, safety, or general welfare from the proposed operation provided the site is maintained.

The applicant has indicated that there will be no chemicals, waste oils, solvents, etc. stored on the property and nothing to cause water pollution. The applicant further indicated that they will dispose of the solid waste by bagging it up and taking it to the dump, which was approved by the Skagit County Environmental Health Department. The cedar shavings/bedding will be donated to NRCS and be used for plantings in the buffer areas along the rivers for the salmon recovery projects.

F. For special uses in Industrial Forest – Natural Resource Lands, Secondary Forest – Natural Resource Lands, and Rural Resource – Natural Resource Lands, the impacts on long-term natural resource management and production will be minimized.

Not applicable.

G. The proposed use is not in conflict with the health and safety of the community.

There is no indication that the proposed use will be in conflict with the health or safety of the community.

The applicant indicated that there will be no conflict with the safety and health of the community.

H. The proposed use will be supported by adequate public facilities or services and will not adversely affect public services to the surrounding areas, or conditions can be established to mitigate adverse impacts on such facilities.

The parcel is supported by adequate on site facilities, will not impact public facilities, and the accessory building does not have a bathroom therefore no



additional impact will be created. There is no indication that the proposal will adversely affect public services to the surrounding area.

The applicant indicated that there will be no impacts on public facilities or services.

RECOMMENDATION

Based on the above findings the Planning and Permit Center would recommend **approval** of the requested Special Use Permit for the operation of a Kennel/Boarding facility to house up to 40 dogs with up to 3 employees. If approved, the following shall be conditions of the approval:

1. The applicant shall obtain all necessary land use approvals.
2. Further review will be needed by the Planning and Permit Center if any major change occurs in the intensity of the use outlined in the application.
3. If the use is abandoned for a period of two (2) years, the Special Use Permit shall be void.
4. Solid waste shall be bagged up and taken to the dump. The solid waste will need to be double bagged and possibly triple bagged. If this is put out with their regular household waste that is picked up by Waste Management Inc., or another solid waste handler, triple bagged will be required to prevent any concerns about exposing waste transport workers to dog waste.
5. The cedar shavings shall be deposited to Natural Resource Conservation Service, or other approved source, for their use with stream restoration projects.
6. The applicant shall comply with WAC 173-160, "Noise Compliance".

Prepared By: BB
Approved By:

Dated: 7-20-01



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