

**BEFORE THE HEARING EXAMINER  
FOR SKAGIT COUNTY**

In the Matter of the Application of	)	No. PL23-0373
	)	
<b>Kirk Damon, on behalf of</b>	)	Ag West Special Use Permit
<b>KNA, LLC</b>	)	
	)	
	)	FINDINGS, CONCLUSIONS,
<u>For a Special Use Permit</u>	)	AND DECISION

**SUMMARY OF DECISION**

The request for a Special Use Permit to replace an existing 1,980 square foot shop building with a proposed 7,200 square foot storage building on a 4.97-acre lot in the Rural Business zone on 5696 Ershig Road is **APPROVED**. Conditions are necessary to address specific impacts of the proposed project.

**SUMMARY OF RECORD**

Hearing Date:

The Hearing Examiner held an open record hearing on the request on November 8, 2023, using virtual access technology.

Testimony:

The following individuals presented testimony under oath at the open record hearing:

Robby Eckroth, County Senior Planner  
Kirk Damon, Applicant Representative

Exhibits:

The following exhibits were admitted into the record:

1. Staff Report, dated October 23, 2023
2. Special Use Permit Application, received August 3, 2023
3. Special Use Permit Criteria Response, undated
4. Site Plan, received August 3, 2023
5. Notice of Development Application and Optional SEPA Determination of Nonsignificance, published August 17, 2023
6. SEPA Checklist, dated July 30, 2023
7. Administrative Decision No. PL23-0195, issued July 24, 2023
8. SEPA Determination of Nonsignificance, issued September 28, 2023
9. Nine Site Visit Photos, undated

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10. Resolution No. 14002, dated August 5, 1991, and Supporting Materials
11. Setback Agreement, dated June 9, 2022

The Hearing Examiner enters the following findings and conclusions based upon the testimony at the open record hearing and the admitted exhibits:

## **FINDINGS**

### Application and Notice

1. Kirk Damon, on behalf of KNA, LLC (Applicant), requests a Special Use Permit to replace an existing 1,980 square foot shop building with a larger 7,200 square foot storage building that will be built on a slab. The proposed new building would accommodate an existing agricultural supply business, "Ag West Implement." The proposed 7,200 square foot building would be visually similar to a second, existing 7,200 square foot building already on the subject property. *Exhibit 1, Staff Report, pages 1 and 2; Exhibit 2; Exhibit 3; Exhibit 4.*
2. Skagit County (County) received the application on August 3, 2023, and determined it was complete on August 11, 2023. The County published a Notice of Development Application in the *Skagit Valley Herald* newspaper on August 17, 2023, posted notice on the subject property, and sent the notice to neighboring property owners within 300 feet of the property. The notice set a comment deadline of September 1, 2023. No public comments were received. *Exhibit 1, Staff Report, page 3; Exhibit 5.*

### State Environmental Policy Act

3. The County Planning and Development Services Department (Department) acted as lead agency and analyzed the environmental impact of the proposal, as required by the State Environmental Policy Act (SEPA), chapter 43.21C RCW. The County consolidated notice of the SEPA review and application comment periods under the optional process provided for by Washington Administrative Code (WAC) 197-11-355, with a SEPA comment deadline of September 1, 2023. The County did not receive comments specific to its SEPA review. The County reviewed the Applicant's environmental checklist and other information on file and determined that, with mitigation conditions, the proposal would not have a probable significant adverse impact on the environment. Accordingly, the County issued a Determination of Nonsignificance (DNS) on September 28, 2023, with an appeal deadline of October 12, 2023. The DNS was not appealed. *Exhibit 1, Staff Report, page 3; Exhibit 5; Exhibit 6; Exhibit 8.*

### Comprehensive Plan and Zoning

4. The subject property is in the Rural Business zone. County staff reviewed the Comprehensive Plan and identified the following goals and policies as relevant to the proposal, and determined that the proposal was consistent with them:
  - Establish certain Limited Areas of More Intensive Rural Development,

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consistent with the Growth Management Act, to recognize historic rural residential, commercial, and industrial development patterns, and to allow certain new small-scale recreation and tourism uses and industries that provide jobs for rural residents. [Goal 3B.]

- The County’s Small-Scale Business and Rural Business designations are based on a third type of LAMIRD allowed under GMA. There are distinctions between the two designations: Small-Scale Business may be applied to a new use in the rural area, whereas a Rural Business must have existed on June 1, 1997. Both designations are consistent with RCW 36.70(A).070(5)(d)(iii) which permits: (a) The intensification of development on lots containing isolated nonresidential uses or new development of isolated cottage industries and isolated small-scale businesses that are not principally designed to serve the existing and projected rural population and nonresidential uses but do provide job opportunities for rural residents. (b) Rural counties may allow the expansion of small-scale businesses as long as those small-scale businesses conform with the rural character of the area as defined by the local government according to RCW 36.70A.030(14). [Policy 3B-1.7.]

*Exhibit 1, Staff Report, pages 9 and 10.*

5. The property consists of two parcels, Nos. P106471 and P106470. The subject parcel, Parcel No. P106471, is zoned Rural Business (RB) and is 2.49 acres. Parcel No. P106470 is zoned Rural Reserve (RRv) and is 2.38 acres. The purpose of the RB zone is “to provide reasonable expansion and change of use opportunities for existing isolated nonresidential uses in the rural area that provide job opportunities for rural residents and that are not consistent with the other commercial and industrial Comprehensive Plan designations and zoning districts.” *Skagit County Code (SCC) 14.16.150(1); Exhibit 1, Staff Report, pages 1, 2, and 4; Testimony of Bobby Eckroth.*
6. A use designated Rural Business may be expanded; provided, that any expansion is limited to a maximum of 50 percent of the gross floor area existing as of June 1, 1997, or 1,500 square feet, whichever is less. The maximum floor area of allowed expansion shall be determined based on the gross floor area dedicated to the Rural Business use as of June 1, 1997. The expansion, as well as all associated development including but not limited to parking areas, driveways, septic systems, wells, and landscaping, must occur on the same lot upon which the existing use is located. [*SMC 14.16.150(2)(c).*]
7. With an approved Hearing Examiner special use permit, a use designated Rural Business which was established prior to July 1, 1990, may be expanded beyond the 1,500-square-foot limit established in Subsection (2)(c) of this Section. For agricultural support services, the expansion is not limited. For all other uses, the

expansion may not exceed 50 percent of the gross floor area dedicated to the Rural Business use as of July 1, 1990, up to a maximum of 5,000 square feet; and Subsections (4)(d)(i) through (vi) of this Section must be met. The applicant shall have the burden of proof to demonstrate that the use was established, and to what extent, prior to July 1, 1990. An expansion of 50 percent is not guaranteed, but instead is a maximum allowance; provided, that in no instance shall an expansion greater than 5,000 square feet of gross floor area be allowed. Compliance with the criteria below may dictate a smaller maximum expansion. Expansions greater than 1,500 square feet shall not be allowed if [criteria SCC 14.16.150(4)(d)(i)-(iv) cannot be met]. [SCC 14.16.150(4)(d).]

8. Staff reviewed the proposal in light of the limits set forth in SCC 14.16.150, noted above, and determined that the proposed building, even with the removal of the existing shop, would exceed the 1,500 square foot limit for expansion of the business established in SCC 14.16.150(2)(c) and that therefore approval of a Special Use Permit from the Hearing Examiner is required. *Exhibit 1, Staff Report, page 5.*
9. Staff reviewed the history of use on the property. The first record of permit history for a business on the subject property was December 5, 1990.<sup>1</sup> At the time, the property was zoned Rural, and a well-drilling company business occupied the site. At the time, the use was determined to be a legal nonconforming use as stated in a letter from Skagit County Planning and Development Services staff, dated March 4, 1991. The application was for a Special Use Permit (Permit #SP 90 046) to expand the use to allow the 7,200 square foot office and storage building that is on the site today. The hearing examiner denied the Special Use Permit application on the grounds that the project did not meet the Special Use Permit criteria. The hearing examiner decision was appealed to the Skagit County Board of County Commissioners. The Board of County Commissioners overturned the decision through Resolution 14002 on August 5, 1991, approving the Special Use Permit application. A building permit was issued for the existing 7,200 square foot building which received final occupancy on October 6, 1992. *Exhibit 1, Staff Report, page 2; Exhibit 10.*
10. Staff was not able to document the site's use prior to July 1, 1990 (the relevant date was approval of expansions under SCC 14.16.150(4)(d)). Staff inferred, however, that, given that the well-drilling business was already established as of December 5, 1990, it was reasonable to infer that the business had been in operation as of July 1, 1990. *Testimony of Bobby Eckroth.*

#### Existing Conditions and Surrounding Uses

11. As noted above, the subject property currently houses one 7,200 square foot building and one 1,980 square foot building, both used as part of Ag West Implement, an agricultural

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<sup>1</sup> See *Exhibit 10.*

supply business. Besides the two buildings, the property consists of a large, fenced lot, partially paved and partially graveled, with equipment, shipping containers, and vehicles stored on the lot. There is an eight-stall parking lot adjacent to the existing 7,200 square foot building. There are a handful of trees on the western and southern boundaries of the property. Existing septic and stormwater control facilities consist of a seasonal retention pond and a drainfield, plus a reserve drainfield. *Exhibit 4; Exhibit 9.*

12. Surrounding properties are zoned Rural Reserve (RRv) and Rural Resource (RRc-NRL). The property to the north is residential. The property to the east (the resource-zoned property) is vacant and heavily forested and not likely to be developed anytime soon because it is tribal land. The property to the south is residential. The property to the west is vacant (and zoned RRv). There are no critical areas either on the subject property or within 200 feet of the proposed building location. *Exhibit 1, Staff Report, pages 2, and 10 to 11; Testimony of Bobby Eckroth.*

#### Landscaping

13. “An approved landscape plan is required for any change of use, new or replacement commercial, industrial or institutional building, special use, or subdivision application.” *SCC 14.16.830(2)(a)*. Type II landscaping is required to provide a visual separation between RB zones abutting RRv zones. *SCC 14.16.830(4)(b)*. Type III landscaping is required to provide visual enhancement along street frontage. *SCC 14.16.830(4)(c)*. The following additional landscaping standards apply:
- Existing Vegetation. Preference is to retain as much of the existing mature vegetation (not including invasive non-native species) as possible within planting areas. Existing mature vegetation may be included in the required amount.
  - Trees shall be varieties that will not conflict with underground or overhead utilities.
  - No artificial lawn or shrubbery will be permitted in landscaped areas.
  - Required landscaping or other vegetation within 30 feet of a driveway or street intersection shall not impair the sight vision between 30 inches and 8 feet from the ground. All trees shall have no branches or foliage below 8 feet above the street level.
  - Erosion control measures and temporary run-off control may become part of a landscape plan.
  - Maintenance for all landscaping and screening areas shall be provided by the owner of the landscaped property. Broken or dead trees or shrubs shall be replaced. All screening and landscaping areas shall be kept free of weeds and trash. Any property owner who fails to maintain landscaping areas will be considered to have committed an offense to this Code pursuant to Chapter 14.44 SCC (Enforcement/Penalties).

- Performance assurance bonding shall be in a cash deposit or other assurance acceptable to the County equal to 125% of the estimated installation costs if landscaping improvements have not been completed prior to application for occupancy. Such deposit shall be accompanied by a letter that shall stipulate the completion of the landscaping no later than 9 months from date of occupancy. If the conditions are not met, the County may use the deposit to perform the landscaping.
- Phased projects shall submit a landscape plan for the site as a whole before any issuance of a building permit is granted.
- Alternative landscape plans that differ from the requirements contained in this Section may be approved as a Level I variance per SCC Chapter 14.10. All plans shall demonstrate how they meet the intent as outlined in this Section or that a hardship exists because of lot topography, size, or location.
- Landscape materials shall be provided consistent with the County's list of acceptable landscape materials.

*SCC 14.16.830(6).*

14. Staff reviewed these requirements and the existing landscaping and determined the following:

- There is existing landscaping along the street frontage south of the entrance to the site, and there is landscaping along the southern property line that screens the existing office and warehouse building. There is also existing landscaping along the northern property line; it stops, however, at the edge of the existing shop building that will be demolished and will not fully screen the proposed storage building. There is no landscaping along the street frontage north of the site entrance.
- Type II landscaping is required along the northern property line to screen the proposed building from the neighboring property. Staff does not recommend additional landscaping along the right-of-way because planning staff consulted Public Works, who expressed concerns that landscaping to the north of the entrance along the street frontage could cause sight distance issues for traffic exiting the property. Because the Applicant is required to add additional Type II landscaping along the northern property line, and because the building will be used to store equipment that is currently stored outside, which will make the site more aesthetically pleasing, staff finds that, considering the circumstances just described, additional landscaping along the street frontage is not necessary. Furthermore, the property across the street is not developed and is fully forested. A landscape plan will be required with the building permit application submittal. Staff encourages the new landscaping to match the existing landscaping to maintain a consistent visual landscape.

*Exhibit 1, Staff Report, pages 8 and 9.*

### Special Use Permit

15. County staff reviewed the entirety of the proposal against the special use approval criteria and made the following relevant observations:
- A Lot of Record Certification application was reviewed under File No. PL17-0572 and was approved on November 8, 2017, and recorded on November 9, 2017, under Auditor's File No. 201711090078. Parcels P106471 and P106470 were determined to be one lot of record.
  - The agricultural service business is existing, and the proposed storage building addition will not change the use or the character of the site. As mentioned above, the purpose of the Rural Business zone is to provide reasonable expansion and change of use opportunities for existing isolated nonresidential uses in the rural area. Landscaping will also be required along the northern property line and along the street frontage in order to mitigate visual impacts to surrounding properties and to maintain the rural character of the area. The Department agrees that the proposed use will be compatible with existing and planned land uses. The project will allow the expansion of a small-scale business, will be consistent with the rural character, and will also serve the surrounding rural and agricultural area.
  - The subject site is designated Rural Business (RB). Skagit County Code 14.16.150(4)(d). With an approved Hearing Examiner special use permit, a use designated Rural Business that was established prior to July 1, 1990, may be expanded beyond the 1,500 square foot limit established in Subsection (2)(c) of SCC 14.16.150. For agricultural support services, the expansion is not limited.
  - The proposed storage building will not create undue impacts on the performance standards outlined within SCC 14.16.840. The site and surrounding areas are designated RRv and RRc-NRL. Any noise, odor, heat, vibration, and/or air and water pollution that could result from the construction activities will be temporary and mitigated as conditioned. Once construction is complete, there should be no impacts to the surrounding properties because the use and intensity of the use of the property will not change. The special use permit has been conditioned to be required to comply with all performance standards.
  - Based on the storage use of the building, the site configuration, and the condition requiring landscaping, the project will not generate an intrusion on the private property of existing surrounding uses.
  - Because the proposal is for a storage building only, there will be no negative impacts on the general public health, safety, or general welfare from the proposed project, provided that the site is appropriately maintained and all local, state, and federal guidelines are adhered to. Because the Applicant is proposing to utilize a concrete slab as part of the building, the building could improve the general public health, safety, and welfare of the area, given that the equipment will no longer be outside and will be located in the proposed building. This could prevent potential impacts to the neighbor's well and the aquifer.

- The proposal is located in the Rural Business (RB) zoning designation and is not proposed in a Resource Land zoning designation. The property across the street is designated Rural Resource (RRc-NRL), but this proposal will not have any impact to that property or the long-term management and production of NRL lands overall. In fact, the use would likely aid the natural resource designated areas by providing agricultural equipment and services.
- The approval of a Special Use Permit for the proposed use will not negatively impact the health and safety of the community, provided that Best Management Practices are maintained.
- The site will be supported by adequate public facilities and services and will not affect public services to the surrounding area. Because the proposal is for a storage building, the use will not necessitate additional public facilities or services.
- The proposed use will maintain the character, landscape, and lifestyle of the rural area. The area is rural in nature and will remain so after construction is completed. Landscaping will be required to properly screen the property and to mitigate any visual impacts to surrounding properties.

*Exhibit 1, Staff Report, pages 9 to 12; Exhibit 3.*

#### Testimony

16. County Senior Planner Bobby Eckroth testified generally about the application and SUP criteria. He testified that the proposed replacement building will lie entirely on the portion of the property zoned Rural Business. He testified that the existing 1,980 square foot building to be removed was very old and dilapidated. He believed the building long pre-dated the requirement to obtain rural building permits. Mr. Eckroth testified that the business's current hours, parking, traffic circulation, and access would not change.

Mr. Eckroth acknowledged that an agricultural support business may expand its footprint beyond 50 percent of the existing footprint, provided that the use was established before July 1, 1990, under SCC 14.16.150(4)(d). He acknowledged that the permits and other documents in Exhibit 10 only went back to December 1990, and that even those permits were for a well-drilling business, not an agricultural support business like Ag West Implement. He believed, however, that the well-drilling business was similar in nature to the agricultural support business, and he also believed that the well-drilling business went back to the 1980s. He believed the establishment of the well-drilling business constituted the established "use" for purposes of SCC 14.16.150(4)(d). He did not believe that the change from well-drilling to agricultural supply was a significant change in the type of "use" of the property, and therefore, he believed the expansion above 50 percent could still be allowed under SCC 14.16.150(4)(d). Confusingly, however, he later also testified that the change from well-drilling to agricultural supply *was* a change of use, but the expansion could still be allowed as being consistent with the "purpose" of the RB zone.



Mr. Eckroth testified that the property would visually be compatible with surrounding land uses, including even the residential uses. First, the subject property had long housed a 7,200 square foot building very similar to the one proposed. Second, the Applicant would be required to install landscaping, consistent with the code, which would mitigate any visual impacts. *Testimony of Bobby Eckroth.*

17. Kirk Damon, Applicant Representative, testified that he did not anticipate the project would have any effect on his neighbors. Once the proposed building was built, many pieces of equipment currently stored outside would be moved inside, which would likely improve the property's visual appeal. He testified that he has excellent relations with his neighbors, especially the one to north, whose well is actually on Mr. Damon's property. He testified that he had a letter of support from this neighbor, which the Hearing Examiner entered in the record as Exhibit 11.

Mr. Damon testified that the height of the building would be 28 feet, 7 inches, although he said that number might change slightly in the course of building permitting.

Mr. Damon testified that he thought the well-drilling business actually dated back to the 1970s, although he was not certain of that. *Testimony of Kirk Damon.*

#### Staff Recommendation

18. Mr. Eckroth testified that the County staff recommends approval of the SUP request, with conditions. The Applicant Representative testified that he had not reviewed the proposed conditions but did not raise any objection. *Testimony of Bobby Eckroth; Testimony of Kirk Damon.*

### **CONCLUSIONS**

#### Jurisdiction

The Hearing Examiner has jurisdiction to hear and decide requests for non-administrative Special Use Permits (SUPs) as a Level II permit. The Hearing Examiner's decision may be to grant or deny an application. Here, the trigger for a non-administrative Special Use Permit is the proposed expansion of an agricultural support business greater than 1,500 square feet or 50 percent of the existing footprint. *Chapter 14.06 SCC; SCC 14.06.060; SCC 14.16.160(9); SCC 14.16.150(4)(d); SCC 14.16.900(1)(b)(ii).*

#### Criteria for Review

Applications for Special Use Permits must demonstrate that the proposed activity will not adversely affect or prevent those uses normally allowed within the respective district. *SCC 14.16.900(1)(a).*

The burden of proof shall be on the applicant to provide evidence in support of the application. The criteria for approval or denial shall include the following:

- (A) The proposed use will be compatible with existing and planned land use.
- (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) The proposed use will not cause potential adverse effects on the general public health, safety, and welfare.
- (F) For special uses in Industrial Forest—Natural Resource Lands, Secondary Forest—Natural Resource Lands, Agricultural—Natural Resource Lands, and Rural Resource—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 to the surrounding areas, or conditions can be established to mitigate adverse impacts on such facilities.
- (I) The proposed 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.

*SCC 14.16.900(1)(b)(v).*

The criteria for review adopted by the Skagit County Board of County Commissioners are designed to implement the requirement of chapter 36.70B RCW to enact the Growth Management Act. In particular, RCW 36.70B.040 mandates that local jurisdictions review proposed development to ensure consistency with County development regulations considering the type of land use, the level of development, infrastructure, and the characteristics of development. *RCW 36.70B.040.*

#### Conclusions Based on Findings

1. **With conditions, the proposed use would not adversely affect or prevent those uses normally allowed within the Rural Business district.** The Rural Business district exists primarily to allow the continuation of expansion of business established prior to the current code. *SCC 14.16.150(2).* Agricultural support businesses, such as Ag West Implement, are a particularly favored use in the zone because they are allowed to expand to an unlimited degree, provided they were established prior to July 1, 1990. *SCC 14.16.150(4)(d).* The proposed storage building addition will not change the use or the

character of the site. Conditions are necessary to ensure the environmental impact of the proposal is minimized. *Findings 1–18.*

2. **With conditions, the proposal would be compatible with existing and planned land use.** The Hearing Examiner agrees that, with County staff’s proposed conditions, the proposal would be compatible with existing and planned uses. In particular, the Hearing Examiner endorses the requirement to prepare a landscaping plan at the building permit stage, to ensure that the new building, larger than the existing building it replaces, will not adversely affect views from the adjacent residential properties. There is no reason, however, at this stage, to believe that it would. *Findings 1–18.*
3. **The proposed use would comply with the Skagit County Code.** The Hearing Examiner agrees with the reasoning expressed by Mr. Eckroth during his testimony regarding the proposal’s compliance with the criteria for expanding agricultural support business set forth in SCC 14.16.150(4)(d). The Hearing Examiner is persuaded by Exhibit 10 and the testimony that the well-drilling business was established prior to July 1, 1990. However, a well-drilling business is not an *agricultural support service* as that term is defined in chapter 14.04 SCC (“any nonagricultural use which is directly related to agriculture and directly dependent upon agriculture for its existence. These support services generally exist off-site and within districts that are intended to facilitate the production, marketing and distribution of agricultural products.”) Thus, a well-drilling business could not expand beyond the limits set in SCC 14.16.150(2)(c), regardless of when it was established. But a well-drilling business that was established prior to July 1, 1990, and that subsequently became an agricultural support service, could be expanded beyond the limits, pursuant to SCC 14.16.150(4)(d). Because that is the scenario presented here, the Hearing Examiner concludes that the proposed expansion is consistent with the code. *Findings 1–18.*
4. **With conditions, the proposed use would not create undue noise, odor, heat, vibration, air, or water pollution impacts on surrounding, existing, or potential dwelling units, based on the performance standards of SCC 14.16.840.** The Hearing Examiner accepts County staff’s analysis that the expansion will not lead to an increase in the amount or nature of traffic, noise, odor, or other impacts. The Hearing Examiner is satisfied that the proposed conditions will prevent any additional environmental pollution. *Findings 1–18.*
5. **With conditions, the proposed use would not generate intrusions on the privacy of surrounding uses.** With the requirement for a landscaping plan, the Hearing Examiner does not expect the new building will generate any intrusions on privacy. *Findings 13 and 14.*

6. **The proposed use would not cause potential adverse effects on the general public health, safety, and welfare, and would not be in conflict with the health and safety of the community.** The Hearing Examiner agrees with County staff's analysis that there will be no adverse impacts to public health, safety, or welfare. *Findings 1–18.*
7. **The proposed use would be supported by adequate public facilities or services and would not adversely affect public services to the surrounding areas, or conditions can be established to mitigate adverse impacts on such facilities.** As noted above, this proposal is not anticipated to generate any additional demands on public facilities or services. *Findings 1–18.*
8. **With conditions, the proposed use would maintain the character, landscape, and lifestyle of the rural area.** The proposed expansion represents a modest change to a long-established land use. The addition of a new agricultural support building to a compound that already contains existing agricultural support buildings is consistent with rural character—indeed, it would be surprising if the rural area did not include agricultural support services such as Ag West Implement. Whatever minor visual and environmental impacts may occur can be mitigated through conditions of approval. *Findings 1–18.*


### **DECISION**

Based on the preceding findings and conclusions, the request for a Special Use Permit to replace an existing 1,980 square foot shop building with a proposed 7,200 square foot storage building on a 4.97-acre lot in the Rural Business zone on 5696 Ershig Road, is **APPROVED**. Conditions are necessary to address specific impacts of the proposed project.

1. **Building Permit:** A building permit is required to be approved by Skagit County Planning and Development Services prior to work/construction. The building is required to meet all applicable Fire and Building Code standards.
2. **Permitting:** All applicable permits (local, state, and federal) shall be obtained prior to construction activities begin onsite. Copies of permits shall be provided to the Skagit County Planning and Development Services Department at the time of building permit application submittal.
3. **Zoning:** The Applicant shall comply with all relevant provisions of Skagit County Code 14.16 – Zoning.
4. **Permit Time Limit:** Per SCC 14.16.900(1)(d), the project shall be commenced within two years of Special Use Permit approval.
5. **Stormwater Plan:** An engineered stormwater report and drainage plan will be required to be submitted with any land disturbance permit and/or the building permit. The plan is required to meet the stormwater requirements of SCC 14.22 and 14.32 and the 2019 Department of Ecology Stormwater Management Manual as subsequently amended, as the stormwater management manual for unincorporated Skagit County.

6. TESC: Temporary erosion and sedimentation control (TESC) measures, as approved by Skagit County Planning and Development Services, shall be in place prior to the placement of any fill material. The Applicant shall maintain all temporary erosion/sedimentation control measures in accordance with the SCC 14.22 and 14.32. Said measures shall remain in place until completion of construction.
7. BMPs: Best management practices (BMPs) are required be implemented during grading, excavation, cut/fill, and construction activities.
8. Performance Standards: The Applicant is required to comply with all Performance Standards per SCC 14.16.840.
9. NWCAA Permits: Asbestos inspection and abatement, as well as a notification to our Northwest Clean Air Agency (NWCAA), will be required prior to any demolition at the project site. The Applicant is required to comply with all applicable NWCAA requirements. Please contact the NWCAA for more information.
10. Inadvertent Discovery of Archaeological Resources: Should any human remains, archaeological, historic, or cultural materials be discovered during construction, work in the affected area shall cease immediately and the area shall be secured. Within 24 hours of the discovery, or as soon thereafter as possible, the developer shall notify the Skagit County Sheriff's office, Skagit County Planning and Development Services, the Washington State Department of Archeology and Historic Preservation and affected tribes. If, following consultation with the above parties it is determined that an archaeological and cultural resource assessment is required, the project developer shall retain the services of a professional archaeologist to prepare such an assessment. Project work in the affected area shall only continue when in conformance with applicable state and federal laws.
11. Landscape Plan: A landscape plan shall be submitted with the building permit application that conforms with SCC 14.16.830. Landscaping is required to be installed along the northern property line to fully screen the proposed building from the property to the north. Landscaping is required to be installed and inspected prior to final building permit approval and occupancy.
12. Copy of Decision: A copy of this decision shall be submitted with the building permit application.
13. Fees: All outstanding fees, including recording fees, shall be paid prior to final approval of the Building Permit Application.

**DECIDED** this 4th day of December 2023.

  
ALEX SIDLES  
Hearing Examiner

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