

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

FINDINGS, CONCLUSIONS AND DECISION

Applicants: Katie and Amy Carson
14034 Calhoun Road
Mount Vernon, WA 98273

File No: PL05-0002

Request: Special Use Permit (Home Based Business II)

Location: 14034 Calhoun Road, Lot 1 of Short Plat 48-88,
within a portion of the NW1/4NW1/4, Sec. 33,
T34N, R3E, W.M.

Land Use Designation: Agriculture – Natural Resource Land (Ag-NRL)

Summary of Proposal: To operate a home furnishing wholesale, design and
fabrication business within an existing barn. The
former summer kitchen of the nearby residence will
be used as an office. No land will be taken out of
agricultural production.

Public Hearing: After reviewing the report of Planning and
Development Services, the Hearing Examiner
conducted a public hearing on July 13, 2005.

Decision: The application is approved subject to conditions.

FINDINGS OF FACT

1. Amy and Katie Carson (applicants) seek a permit to operate a home-based business in a barn and a small portion of their residence at 14034 Calhoun Road.
2. The property is a 2.83 acre parcel at the intersection of Calhoun and Best roads, within a portion of the NW1/4NW1/4 Sec. 33, T34N, R3E, W.M. (Parcel P23081). The parcel is zoned Agriculture - NRL.
3. The existing single-family residence, barn and other outbuildings on the parcel are located in the northwest corner of the property. Access is by a driveway from Calhoun Road. Near the barn is a three-bay carport and room for at least seven cars to park out of doors .
4. The applicants also own another acre across Calhoun Road. Of the nearly four acres they own three are being actively farmed. Their plans are to continue these farming operations indefinitely. The home-based business will take no land whatsoever out of agricultural production.
5. The residence is the principal home of the applicants. It is where they have chosen to live. The business will be incidental to their use of the property for dwelling purposes.
6. The proposal is solely to make use of interior spaces within the barn and residence. There will be no exterior indication of the business except for a small non-illuminated sign. No business-related materials will be stored outside. No alterations to the outsides of buildings will be made
7. The business proposed has two components. One is a wholesale activity, involving receiving, packing, shipping and storage. The office for this operation will occupy an existing portion of the house (16' x 20') once used as a summer kitchen when the house was built in 1924. There will also be a design shop which will create prototypes and one-of-a-kind furniture pieces. The shop will primarily engage in fabrication of tables from Douglas fir boards purchased from Duluth Timber in Edison and milled by Riverside Mills in Mt. Vernon.
8. The barn measures 50 feet by 63 feet and is two-stories high. It has not been used for livestock for some time. The proposal is to devote 1,600 square feet of the main floor to the wholesale activity. The design shop will occupy 700 square feet of the main floor. The remainder of the main floor and the second story will be used for personal storage and a painting studio.
9. Initially the business will have four employees – the applicants and two others.

The hours of operation will be Monday through Friday from 10. a.m. to 6 p.m. Only occasionally will clients visit. They will come by appointment only. The parking on site is adequate for residents, employees and clients.

10. Deliveries and pick ups will be by UPS and Roadway. UPS will visit daily. Roadway will come only as needed. Quarterly shipments received from abroad will be delivered in vans ranging up to a maximum of 20 feet. The delivery vehicles will remain on site only during loading or unloading. There is space in the driveway and parking areas for trucks to load and unload completely off of the road right-of-way.

11. The wholesale shipping and receiving operation will involve no noise or pollution. The space occupied by that portion of the business will be heated by a propane heater.

12. The fabrication work will not involve any industrial machinery. A sander, band saw and power drill will be used at times, but in terms of impacts, the operation will be similar to a home woodshop. The tools will only be operated one at a time. A vacuum will be employed to catch dust particles. Wax will be used as the primary finishing material. There is no indication that the operation will generate hazardous wastes. The nearest neighboring home is at least 1,000 feet distant. It is highly unlikely that the noise or odors generated will disturb any residential uses.

13. No plumbing exists or is necessary in the barn, as there is a bathroom in the office space for employees and clients to use. There are no wells within 1,000 feet of the proposed business.

14. Traffic generated by business will be minor, readily accommodated by the surrounding road system. The business will not generate any intrusion of privacy on surroundings uses. Adequate public facilities and services are available to support the business. The health and safety of the community will not be affected by it.

15. The business will be the wholesale and design component of Bitters Company which sells home furnishings made in the U.S. and overseas at a retail store in Seattle. The wholesale and wood shop operations began in 2000 as a further development of the business. For the past four years these operations have been run out of leased space in Spokane.

16. A Determination of Non-Significance (DNS) under the State Environmental Policy Act (SEPA) was issued on May 2, 2005. The DNS was not appealed.

17. County departments were consulted. Their comments are reflected in Conditions of Approval.

18. There were eight letters from the public. Four of these were in favor of the proposal. Three writers opposed it. The other letter was from an attorney for one of the opponents. The main thrust of the opposition was the contention that this business should not be located on agriculturally zoned property. At the hearing the only public testimony was from persons favoring the application.

19. 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. SCC 14.06.050(1).

2. The requirements of SEPA have been met.

3. Home based businesses are allowed in the Agriculture – NRL zone as a Hearing Examiner Special Use, provided that no conversion of agricultural land is required to accommodate the business activity. SCC 14.16.400(4)(c). Here no agricultural land will be converted.

4. Under the Code, then, the proposed business is the wrong thing for the Agriculture – NRL zone only if it fails to meet the requirements for a Home Based Business. SCC 14.04.020 defines “home based businesses” as home occupations that remain “incidental to the use of the residence for general dwelling purposes and are compatible with rural character.” Here there are no exterior indications of the business that will detract from the rural setting. The Examiner concludes that the business, as proposed, is compatible with rural character.

5. SCC 14.16.900(3)(e) sets forth special criteria for a Home Based Business 2 Permit, as follows:

- a. Is carried out by a member or members of a family residing in the dwelling and may include up to three (3) additional employees;
- b. Is clearly incidental and secondary to the use of the property for dwelling purposes;
- c. The business activity may be conducted in other than the dwelling;

d. Has no outside storage nor other exterior indication of the home occupation or variation from the residential character of the property with the exception of one (1) sign not to exceed four (4) square feet, provide such sign shall not be illuminated;

e. 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 to a residential area;

f. Does not create a level of parking demand beyond that which is normal to a residential area;

g. May have clients come to the site;

6. The business as described in the application is obviously within the scope of all of these requirements, with the exception of (b). Whether the business is incidental and secondary to use of the property for dwelling purposes is subject to no clear test.

7. In the Examiner's view, once applicants show that they are in fact occupying a home on the property as their primary residence and show that the business is in fact within the scope of the other "home based business" limitations, only extraordinarily compelling circumstances can dictate denying a business on the basis that it is not incidental to use of the property for general dwelling purposes. No such circumstances are evident here.

8. The Examiner, therefore concludes that the criteria of SCC 14.16.900(3)(e) are satisfied.

9. The general criteria for Special Use Permit approval are set forth at SCC 14.16.900(2)(b)(v), as follows:

(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 standards of SCC 14.16.840.

(d) The proposed use will not generate intrusions on privacy of surrounding uses.

- (e) Potential effects regarding the general public health, safety, and general 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 and services and will not adversely affect public services to the surrounding areas, or conditions can be established to mitigate adverse impacts on such facilities.

10. The Staff Report (p. 5) contains a detailed discussion of the compatibility of the proposed use with the Comprehensive Plan. The project meets a number of land use and economic development goals and objectives. As to conformity to the County Code, the project complies through seeking Special Use Permit authorization. The project is, thus, consistent with the first two of the special use criteria. Moreover, the facts support a conclusion that this home based business proposal is consistent with the balance of the Special Use Permit criteria, if the conditions set forth below are imposed and complied with.

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

CONDITIONS

1. The applicant shall meet all requirements of the Building Official, including obtaining any required change of use permit, prior to the start of business. The square footage used shall be essentially the same as identified in the application.
2. Hours of operation shall be from 10 a.m. to 6 p.m., Monday through Friday.
3. The number of non-residential employees shall be limited to three.
4. No loading, off-lading or parking shall occur within the County right-of-way.
5. The business shall meet the standards for control of noise and light set forth in SCC 14.16.840 and Chapter 173-60 WAC. The various pieces of power equipment shall be operated one at a time.

6. Ground and surface water quality standard of Chapters 173-200 and 173-201A WAC shall be complied with.

7. Only one non-illuminated sign, not to exceed four square feet shall be allowed on the site.

8. The applicant shall meet the requirements of the Fire Marshal for fire flow prior to the start of business.

9. The business shall be made accessible to the handicapped.

10. Except for necessary loading and unloading, the activities of the business shall be confined to the structures described in the application and shall not expand beyond the areas identified.

11. The applicants shall comply with the provisions of SCC 14.16.870, Notification of Development Activities on or Adjacent to Designated Natural Resource Lands.

12. The Special Use Permit shall be void if development is not started within two years of the date of permit approval or if the use is abandoned for a period of one year.

13. No significant changes in the type or volume of business shall occur without the approval of Planning and Development Service. If and when the business grows beyond the limits established in these conditions, it shall be relocated to a zoning classification which permits the activity.

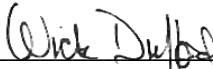
14. Planning and Development Services shall be notified of any change in ownership of the subject parcel within 30 days of the transfer.

15. Prior to issuance of the Special Use Permit, all outstanding planning review fees shall be paid in full.

16. Failure to comply with any condition herein may result in permit revocation.

DECISION

The request Special Use Permit for a Home Based Business is approved, subject to the above conditions.



Wick Dufford, Hearing Examiner

Date of Action: July 27, 2005

Date Transmitted to Applicants: July 27, 2005

RECONSIDERATION/APPEAL

As provided in SCC 14.06.180, a request for reconsideration may be filed with Planning and Development Services within 10 days after the date of this decision. As provided in SCC 14.06.120(9), the decision may be appealed to the Board of County Commissioners by filing a written Notice of Appeal with Planning and Development Services within 14 days after the date of the decision, or decision on reconsideration, if applicable.