

**BEFORE THE SKAGIT COUNTY HEARING EXAMINER**

**FINDINGS, CONCLUSIONS AND DECISION**

**Applicant:** Frank Pape  
9840 Pulver Road  
Burlington, WA 98233

**Agent:** David Hough  
17483 W. Big Lake Blvd  
Mount Vernon, WA 98274

**File No:** PL07-0792

**Request:** Special Use Permit (Home Based Business)

**Location:** 9840 Pulver Road, within a portion of Sec. 24, T35N,  
R3E, W.M.

**Parcel Nos:** P34749, P34750, P99276

**Land Use Designation:** Agricultural Natural Resource Lands (Ag-NRL)

**Summary of Proposal:** To authorize continued operation of a recreational vehicle appliance repair business, and permit the installation of a 3,000 square-foot shop in connection with the business.

**Public Hearing:** After reviewing the report of Planning and Development Services, the Hearing Examiner conducted a public hearing on June 25, 2008.

**Decision:** The application is approved, subject to conditions.

## **FINDINGS OF FACT**

1. Frank Pape (applicant) seeks to continue operating a recreational vehicle (RV) appliance repair business as a home-based business.
2. The site is 9840 Pulver Road, within a portion of Sec. 24, T35N, R3E, W.M. The zoning is Agricultural- Natural Resource Land (Ag-NRL). The parcel numbers are P34749, P34750, and P99276.
3. The property lies on the west side of the road and is approximately one acre in size. Facing the road in the southerly portion of the property is a 3,500 square-foot tri-level single family residence, mother-in-law apartment and attached two-car garage. A portion of the garage is being used by the business for parts storage. Also, the site presently contains a 22' x 60' portable RV storage shelter, located to the rear and north of the garage, where some repair work is presently performed. In 2004, the applicant installed approximately 675 feet of evergreen trees for screening along the north, west and south sides of the lot. In addition there are a number of interior trees within the property.
4. The RV appliance repair business has been operating out of the residence for approximately 14 years. The business involves repair work on systems above the chassis, including air conditioners, appliances, fresh-water plumbing, waste-water plumbing, electrical systems. No motor or drive train work is performed.
5. The business is called "Action Mobile RV Service." The applicant states that over half of the business's work is done off-site at camp grounds, RV parks, or the homes of RV owners. The business has four service vans used to do the off-site work.
6. The subject permit proposal will involve the creation of more effective screening of the site from outside views, the removal of the portable RV storage shelter, and the construction of a 3,000 square foot shop to be located on the north boundary of the site. On-site repair activities will be shifted to the new shop building. Access will be via a driveway off Pulver Road just north of the house. Parking directly off the Pulver Road will be discontinued. Temporary RV parking is proposed along the back of the lot approximately 200 feet from the road. Space along the south side of the house will be available for personal and employee parking.
7. The work force consists of the applicant and three employees. Normal business hours are 8 a.m. to 5 p.m. Monday through Friday. Most of the work that is done on the residential property occurs during the summer from just prior to Memorial Day through Labor Day. With the construction of the new shop, an additional sewage system will be installed for the restroom facilities in the shop. There is no indication that water supply and sewage treatment cannot be approved.

8. The applicant reports that the business involves no more than three or four customer visits to the site per day. He asserts that traffic generation does not exceed that which would be normal at a residence. The applicant states that work is most-often completed on an RV on the day that it is brought in. However, it is apparent that at times there will be a need for short-term parking of RVs on the site. Because of this, an RV parking area is provided. It is at the rear of the lot so that the parked RV's will be effectively screened from off-site public views. Indeed, the applicant maintains that, with the addition of new fencing and plantings along Pulver Road, any exterior indication of the business to public view will effectively be removed.

9. According to the applicant, the repair work performed does not generate vibration, smoke, dust, heat, glare or air pollution. Little noise is involved, but what noise there is will be contained within the new shop building. Little waste material is generated on site. If work is required on an RV holding tank, the customer must bring the RV in flushed and empty. Drip pans will be provided for RV's temporarily parked on site. Such used oil, other waste materials, or disposed-of appliances as are collected will continue to be delivered to an approved recycling facility. The applicant says that over the past 14 years there has been no problem with spills or leaks contaminating the soil or water.

10. The history of the business implies that none of the land on the one-acre site has been used for agricultural production for at least 14 years. Allowing the subject business to continue, therefore, would not convert any land currently in agriculture to the home-based business activity.

11. However, the use is clearly not accessory to an actively managed, ongoing agricultural operation.

12. The application was received on October 3, 2007. An Mitigated Determination of Non-Significance (MDNS) under the State Environmental Policy Act (SEPA) was issued on December 13, 2007. No appeal was filed. The conditions of the MDNS are standard directives to comply with adopted ordinances.

13. Two members of the public wrote letters commenting on the application. The same two testified at the hearing. One is the neighbor to the north, the other a former employee of the applicant. The gist of their testimony was that the size and impact of the business has been much greater than represented by the applicant. They argued that it should be located in a zone that is appropriate to an enterprise of its intensity. In sum, they urged that the nature of the operation is really not that of a home-based business that is merely incidental to the residential use of the property.

14. Specific criteria for Home Based Business 2 as a special use are given at SCC 14.16.900(2)(e). These criteria and findings related to them are set forth below:

(i) Is carried out by a member or members of a family residing in the dwelling and

may include up to 3 additional employees.

The applicant said that he has resided on the property since 1994, although he now spends a portion of each year in Arizona. The Examiner finds that the home on the property is the applicant's residence. The business has 3 additional employees.

(ii) Is clearly incidental and secondary to the use of the property for dwelling purposes.

The residence is substantial. There is a large patio area with specialty landscaping and a waterfall. The mother-in-law apartment and two-car garage are residential accessories. Once the new shop is installed, the garage will cease to be used for business purposes. The primary use of the property is residential.

(iii) The business may be conducted in other than the dwelling.

The new shop will be the main center on the site for business activity. Some incidental parking will occur at the rear of the property.

(iv) 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 1 sign not to exceed 4 square feet, provided such sign shall not be illuminated.

Signs at the property can be addressed through a condition of approval. Once the appropriate landscaping and screening are in place, there should be no exterior indication of the business from outside. Conditions of approval are needed to insure that the screening is adequate and is maintained. No outside storage is proposed. The short-term parking of RV's will not be visible to public views.

(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 to a residential area;

The applicant will be required to meet all adopted regulations concerning pollution and environmental impacts. Confining work activities to the shop should help to limit whatever external impacts there might otherwise be.

(vi) Does not create a level of parking demands beyond that which is normal to a residential area.

(vii) May have clients come to the site.

Most of the business's work is done off-site. The number of clients coming to the site and the number employees will create a modest parking demand that is well within the

capacity of the site to accommodate. Such parking will not be visible from outside. The amount of traffic generated will not be significant.

15. The general criteria for a Special Use Permit are set forth at SCC 14.16.900(1)(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.

16. The Staff Report analyses the application is light of the above criteria and finds that, as conditioned, the business will comply with them. The Hearing Examiner concurs with this analysis and adopts the same. The Staff Report is by this reference incorporated herein as though fully set forth.

17. The application in question was received just under the wire legally. The Examiner assumes that the applicant has made the application in good faith and will comply with all conditions of approval. The business as contemplated appears to be at the limit of what can be accepted as a home-based business. If it becomes any larger, it should relocate to an appropriate zone.

18. 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 subject application is for a “Home Based Business 2.” Such a use is subject to a Hearing Examiner Special Use Permit.

4. On September 10, 2007, the County adopted Ordinance No. 020070009 which revised the text of SCC 14.16.400, the Ag-NRL section of the zoning code. Among the amendments to the subsection on uses allowed as Hearing Examiner Special Uses was the following:

“Home Based Business 2, provided the use is accessory to an actively managed, ongoing agricultural operation and no conversion of agricultural land is required to accommodate the business activity.” SCC 14.16.400(4)(d).

5. The proposed home-based business operation does not qualify for a Special Use Permit under the quoted Code subsection. The amendment effectively prohibited the kind of use the applicant is making of his property.

6. However, the adopting ordinance provided an effective date that was 30-days following the date the ordinance was signed. Therefore, it appears that the subject application, filed on October 3, 2007, vested before the amendment to the Ag-NRL section went into effect.

7. Because no conversion of agricultural land is required to accommodate the business activity, it meets the prior version of the Code, previously codified at SCC 14.16.400(4)(c).

8. As conditioned, the proposal is also consistent with SCC 14.16.900(2)(e) – the specific criteria for Home Based Business 2.

9. As conditioned, the proposal is consistent with SCC 14.16.900(1)(b)(v).

10. Today, anyone making an application to start up the kind of Home Business in an Ag-NRL zone that is contemplated in this case would have to be denied. This puts a particularly heavy burden on the applicant here to insure that his business is operated

within the limits imposed. If there is a failure to comply with the conditions of approval, his permit should be revoked.

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

## **CONDITIONS**

1. The construction and operation of the home-based business shall be as described in the application materials, except as the same may be modified by these conditions.

2. The applicant shall obtain a building permit for the new shop and all other necessary permits and approvals. A copy of this decision shall be submitted with the building permit application.

3. The applicant shall comply with the conditions of the MDNS issued by the County on December 13, 2007.

4. The applicant shall comply with all applicable County ordinances, included but not limited to SCC 14.16.840 (Performance Standards), SCC 14.16.800 (Parking), SCC 14.16.820 (Signs), SCC 14.16.830 (Landscaping)

5. The applicant shall comply with applicable State requirements for spill control and waste handling. Any used oil or chemicals shall be stored within the shop in metal drums with adequate containment provided.

6. The applicant shall supply a letter from the dump site(s) for oil and used appliances indicating that they are approved sites and are willing to accept the materials offered.

7. Additional screening shall be provided along Pulver Road and additional landscaping shall be undertaken on the other sides of the property to insure that the operations on-site are not visible from outside. The applicant shall provide Planning and Development Services (PDS) with a screening and planting plan demonstrating compliance with this condition. The plan shall include provisions for the maintenance and survival of plantings.

8. The applicant shall eliminate all commercial insignia or signs from the property with the exception of one un-illuminated sign not to exceed four square feet.

9. The applicant shall obtain appropriate departmental approvals for water and sewage systems. All County Fire Marshal requirements shall be met.

10. Parking of RV's on the property shall be only on a temporary basis while they await service in the shop. At no time shall more than eight such units be parked on site at once.

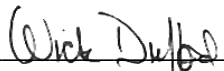
11. This permit shall be void if a complete building permit application has not been filed with PDS within two years of permit approval.

12. Failure to comply with any permit condition shall result in permit revocation.

### **DECISION**

The requested Special Use Permit application (PL07-0792) is approved, subject to the conditions set forth above.

DONE this 22 day of July, 2008.

  
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Wick Dufford, Hearing Examiner

Date Transmitted to Applicant: July 22, 2008

### **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.