

**SKAGIT COUNTY HEARING EXAMINER
STATE OF WASHINGTON**

In the Matter of:

GAIL EMBERT and SID LINDQUIST

Applicants,

Special Use Application.

PL04-0901

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

This matter having come regularly before the Skagit County Hearing Examiner for a public hearing on April 20, 2005 under an application filed with the Planning Department by the applicants, Gail Embert and Sid Lindquist, seeking a Special Use Permit. The real property is located as follows: 16846 Mountain View Road, Mount Vernon, Skagit County, WA. The proposed improvements are located within a portion of Section 36, Township 34 north, Range 04, W.M., Skagit County, WA (parcels P29844 and 29850). The Assessor's Account Number for this property is 340436-0-006-0206.

PROJECT DESCRIPTION: Applicants have applied for a Special Use Permit to allow for a Home Based Business involving outdoor weddings and events. The application is for a Home Based Business 2, pursuant to Skagit County Code (SCC) 14.16.900(3)(e), which is a Special Use under the code.

FINDINGS OF FACT

1. **ZONING/COMPREHENSIVE PLAN DESIGNATIONS.** The subject property is zoned Rural Reserve and has a Comprehensive Plan designation of Rural Reserve.
2. **PROCESSING.** Pursuant to SCC 14.06.100 a letter of incompleteness was issued on January 7, 2005. The applicant submitted the information requested by the Department and the application was determined to be complete on February 1, 2005. The documentation was recorded in the Permit Plus database. A Notice of Development Application was posted on the subject property, published in a newspaper of general circulation, and mailed to property owners within 300 feet of the subject property the week of February 7, 2005, as required by Skagit County Code Section 14.06.150(2). The public hearing has been advertised and notices sent as required by Skagit County Code Section 14.06.150(3).
3. **STATE ENVIRONMENTAL POLICY ACT.** The application has been reviewed in accordance with the State Environmental Policy Act guidelines (WAC 197-11 and RCW 43.21C). A Mitigated Determination of Nonsignificance (MDNS) was issued on March 3, 2005, becoming effective following the fifteen-

day comment period ending March 25, 2005 and a 14-day appeal period ending April 8, 2005. No appeal was filed.

4. **FLOOD AREA REVIEW.** The subject property is not located within a designated flood hazard zone.
5. The subject property is in excess of 3.05 acres, runs in a north to south configuration, and is located west of the intersection of West Big Lake Boulevard and Mountain View Road. The applicants own additional parcel (P29851). The Hearing Examiner has determined that the Applicants intended to include parcel P29850 in the application and the staff report does not indicate the additional parcel as part of the application. This decision will be based on use of both parcels.
6. The property is accessed by way of Mountain View Road on the north property line boundary and by way of Boyd Road at the southeastern boundary of the property. The main access to the property is provided by way of a driveway off of Mountain View Road. Boyd Road is a private road and provides a limited residential access to the property. The Department recommends that Boyd Road not be permitted to be utilized for the business use of the property. The Applicants has accepted that restriction as a condition of this permit.
7. The applicants are requesting a Special Use Permit to utilize an existing home for a business to have outdoor weddings and events. The applicants propose to utilize a 1,200 sq. ft. daylight basement, 16 foot gazebo with 20 ft. by 30 ft. seating area, 720 sq. ft. covered deck, and a 2,600 sq. ft. patio to hold the events. Maximum capacity would be 125 people. The applicants described proposed parking for 64 vehicles (44 on site and 20 off site at 17201 West Big Lake Blvd). However, the Department determined that allowing off site parking in conjunction with the proposal would exceed the parking demand criteria of a Home Based Business II. Therefore, the applicants have agreed not to utilize off site parking. County staff determined that parking for 44 cars on site also represents a parking use scenario that would not be normal on a regular basis in a residential area. County staff recommends that parking be limited to 30 cars on site, which represents a more reasonable parking use for the site to support the home based business, but limit impacts to the neighborhood. With wedding parties often traveling in parties of two to four to a vehicle, this number of cars could easily generate 60 to 100 people, which would appear to be a reasonable maximum number to permit, and again, not impact the neighborhood. Vehicles will be parked and retrieved by an usher when they arrive to and leave from the event.
8. Events will be limited to one per day, not longer than an 8 hour period between the hours of 8:00 AM to 9:00 PM. The business will operate from Friday to Sunday, the middle of May through September.
9. The applicants have indicated that they will not provide or contract to provide any

food or beverages, and that clients can choose to cater, pot luck, or order out. The applicants have also indicated that no hard alcohol or beer kegs will be permitted, and that champagne, wine, and/or beer (in bottles or cans) will be allowed with a banquet permit obtained at a Washington State Liquor store and must be served by a food and beverage server with a Skagit County Health Department food handler card. If additional garbage hauling is required for the business use of the property, the applicant will be required to be responsible for obtaining additional service for this purpose.

10. Skagit County Code Section 14.16.900 (3)(e) identifies Home Based Business II as a special use permit subject to the following criteria, which is written in **bold font** and the findings are in normal font:
 - (a) **Is carried on by a member or members of a family residing in the dwelling and may include up to three (3) additional employees;** The applicants have indicated that they will operate the business with up to three additional employees.
 - (b) **Is clearly incidental and secondary to the use of the property for dwelling purposes;** The applicants have indicated that if the business is booked at 100% it would operate 60 days per year. The applicants note that they reside in the home 365 days per year, and at a maximum usage of 16%, it would clearly make the use of the lodge secondary and incidental to the use of the property as a residence.
 - (c) **The business activity may be conducted in other than the dwelling;** The proposed events will partly take place outside of the residence in the area of a 16 foot gazebo with 20 ft. by 30 ft. seating area, 720 sq. ft. covered deck, and a 2,600 sq. ft. patio.
 - (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 sign not to exceed four (4) square feet provided such sign shall not be illuminated;** The applicants have indicated that their objective is “to create an event site that doesn’t compromise the character of the property. If and when we decide on signage it will comply with the ‘one sign not to exceed 4 square feet’ and post it according to code at the Mountain View Road entrance.” The existing vegetation located at the property boundaries will act as a barrier to screen the view of events taking place.
 - (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.** Staff has not found any impacts from this project that are inconsistent with the existing conditions in the area.

- (f) **Does not create a level of parking demand beyond that which is normal to a residential area.** Allowing up to 30 vehicles parked on the property would appear to be the upper limit of parking allowed, and still not disrupt the residential area.
 - (g) **May have clients come to the site.** The business will depend entirely on clients coming to the site to attend weddings and other events.
11. Skagit County Code Section 14.16.900(2)(b)(v) Special Uses indicates that certain criteria will be reviewed when approving or denying Special Use Permits. The criteria is written in **bold font** and the findings are in normal font:
- a) **The proposed use will be compatible with existing and planned land use and comply with the Comprehensive Plan.** Chapter 4 Land Use Element of the Comprehensive Plan has goals, objectives and policies that support the proposed project. Goal A—Permit the operation of home occupations that are consistent with existing and planned land use patterns and are of an appropriate size and scale to maintain rural character. Objective 19—To provide opportunities for rural entrepreneurs to establish small-scale service or fabrication businesses within their homes that provide economic and limited employment opportunities in the rural area and are compatible with surrounding uses. Policies—4A-19.1--19.2, 19.4- -19.10 all apply to this proposal. Chapter 12 Economic Development Element of the Comprehensive Plans has several goals, objectives, and policies that support the proposed project. Goal A—Create and maintain diverse employment opportunities that meet the changing income needs of Skagit County residents. Objective 1: Facilitate the creation and retention of family wage jobs to meet the needs and demands of Skagit County households. Encourage diverse job options and entrepreneurial opportunities for persons interested in full-time and part-time employment or desiring to own their own business. Policies—12A-1.1 Business investments that provide economic and employment opportunities to meet the employment needs of all county residents should actively be encouraged. 12A-1.3 Home occupations that are consistent with the character of adjoining properties and neighborhoods will be accommodated.
 - b) **The proposed use complies with the Skagit County Code.** The subject property is zoned Rural Reserve. SCC 14.04. defines Home Based Businesses as home occupations that remain incidental to the use of a residence for general dwelling purposes and are compatible with rural character. There are two categories of Home Based Business allowed. Home Based Business I is generally a permitted use while Home Based Business II requires a special use permit. SCC 14.16.320(4)(p) lists Home Based Business II in the Rural Reserve zone as a Hearing Examiner Special Use. The application is then reviewed on its own merits.
 - 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.

The proposed use as modified and conditioned should not generate any of these impacts. The applicant has indicated that planned events will meet the performance standard requirements of SCC 14.16.840. Applicants have stated that loud bands will not be permitted and all music for events will be previewed by the applicants and operated by an employee from inside the existing home.

d) The proposed use will not generate intrusions on privacy of surrounding uses. The Hearing Examiner had determined that by controlling parking to 30 cars on applicants' property and not allowing access from Boyd Road, together with the other conditions imposed by this decision and order, the neighbors will be protected from intrusion on privacy.

e) Potential effects regarding the general public health, safety, and general welfare. There would not appear to be any foreseeable negative effects on the general public, based on the conditions imposed herein.

f) For special uses in Industrial Forest-NRL, Secondary Forest-NRL, Agricultural-NRL, and Rural Resource-NRL, the impacts on long-term natural resource management and production will be minimized. The proposed use is located in the Rural Reserve zone and is not subject to being reviewed in association with the above criteria.

g) The proposed use is not in conflict with the health and safety of the community. As previously mentioned, there would not appear to be any foreseeable negative effects on the general public.

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. Because the propose use will involve existing facilities, additional public service or facilities will not be required. If additional garbage hauling is required for the business use of the property, the applicant will be responsible for obtaining additional service for this purpose.

CONCLUSIONS OF LAW

1. The Hearing Examiner has jurisdiction over the subject matter of this application and has authority make a decision.
2. This project complies with the requirements of the SCC provisions for a Special Use Permit for a Home Based Business II.

DECISION AND ORDER

The Hearing Examiner now **approves** the Special Use Permit Application for a Home Based Business II for outdoor weddings and events, with the following conditions:

1. The applicant shall obtain all applicable permits prior to the start of business.
2. Prior to permit approval, the applicants will be required to obtain building permits for change of use associated with the building and any attached construction (patios, stairs, etc.).
3. The applicant will need to meet the requirements of current building, fire, and handicapped regulations.
4. The applicant is not to be allowed to offer rooms for rent as transient accommodations. No sleeping rooms or overnight rentals.
5. The access at 23078 Boyd Road while not to be used as part of this business needs to remain open for access by Emergency Vehicles.
6. Post Boyd Road address by telephones in event areas: *'For 9-1-1 calls use this address.'*
7. A Group B water system (Boyd Road Water System) has its 100' WPZ overlapping onto the property in the lower parking area. Surface run off that leaves the parking area is required to be diverted (ditched/channeled) away from the 100' WPZ so that it does not travel down slope in the direction of the well. The property also has on file with the Auditor's Office #200105170153 a Low Flow Mitigation that allows for no outside landscape-lawn watering during the months of June 1 to September 30 each year.
8. The Skagit County Health Department must review and approve the septic system prior to the operation of the business.
9. If additional garbage hauling is required for the business use of the property, the applicant will be required to obtain additional service for this purpose.
10. The operation of the business must meet the requirements of Skagit County Code 14.16.840 for light and noise conditions. All music and amplification systems will be controlled by the Applicants and not by the clients. No live bands will be permitted at any events.
11. As per SCC 14.16.830(b), Type II landscaping shall be required to be installed adjacent to the property perimeters to maintain privacy between existing and future residential uses. Existing plantings can be utilized to maintain the required landscaping.
12. Parking will be limited to 30 vehicles on site, with no off site parking permitted. There shall be no parking permitted along Mountain View Road, West Big Lake Blvd., or Boyd Road.
13. Boyd Road shall not be permitted to be utilized for parking, or as an entry/exit point for the business use, unless an emergency situation warrants immediate access.
14. Events will be limited to one per day, and only be permitted to operate between the hours of 8:00 AM to 9:00 PM. Each event will only be permitted to operate a maximum of 8 hours during this period. The business will only be permitted to operate from Friday to Sunday, the middle of May through September.

15. Non-residential employees will be limited to three (3).
16. The special use permit shall be void if not started within (2) two years of the date of this order, and if abandoned for a period of 1 (one) year.
17. If the business grows beyond the criteria established above and the conditions included in any approval, the business shall relocate to a zoning classification which permits the activity.
18. The Planning and Development Services shall be notified within 30 days after any change in ownership of the parcels by submitting a letter to the Planning Director referencing the permit number (PL04-0901).
19. Prior to the issuance of any permit, all outstanding planning review fees shall be paid in full.

Dated this 23rd day of May, 2005.

C. Thomas Moser
Skagit County Hearing Examiner, Pro Tem