

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

FINDINGS, CONCLUSIONS AND DECISION

Applicant: Gerry Minor
13007 Avon Allen Road
Mount Vernon, WA 98273

Agent: Marianne Manville-Ailes
Skagit Surveyors and Engineers
806 Metcalf Street
Sedro Woolley, WA 98284

File No: PL05-0664

Request: Special Use Permit

Location: 13007 Avon Allen Road, within Secs. 2 and 11, T34N,
R3E, W.M. The site is at the southeast corner of the
intersection of SR20 and Avon Allen Road.

Land Use Designation: Rural Reserve

Summary of Proposal: To expand a business involving the selling of flowers and
produce. Permission is sought to continue operations
within a 76' x 27' pole building. The plan calls for
operation as a seasonal roadside stand from April to
November, with the possibility of selling Christmas trees
over the holidays.

Public Hearing: After reviewing the report of Planning and Development
Services, the Hearing Examiner conducted a public hearing
on March 8, 2006.

Decision: The application is approved, subject to conditions.

FINDINGS OF FACT

1. Gerry Minor (applicant) seeks a Special Use Permit for a seasonal roadside stand that sells flowers, local produce and other locally produced items, including cheeses and ice cream.

2. The address is 13007 Avon Allen Road. The site comprises approximately 3.52 acres at the southeast corner of the intersection of Avon Allen Road and SR 20. The property lies within portions of Secs. 2 and 11, T34N, R3E, W.M.

3. The business has been selling produce and flowers at the site for six years. The applicant has operated from his existing green houses and a small cart and farm stand.

4. Recently the applicant constructed a 2,052 square foot pole building (76' x27') on the site. The building was constructed without a building permit. A code compliance case (CE05-0170) was filed.

5. The proposal is to legitimize operation of the business from the pole building and to expand the items sold to include more local produce and other locally produced items, such as cheeses and ice cream. This will give local farmers an outlet to sell their products at a highly visible location.

6. Operations from the present configuration of buildings can continue only until the Washington Department of Transportation's (WSDOT's) planned roadway improvements on SR 20 force components of the business to be moved. Conducting these interim operations is what is called Phase 1. It appears likely that the roadway construction will not require a change at the site for four to five years.

7. In order to accommodate the new roadway when it is eventually built, the applicant has presented preliminary ideas for reconfiguration in a Phase 2. As presently conceived, Phase 2 would involve moving the existing residence and the greenhouses. One of the barns would be rotated and the portion of the pole building closest to SR 20 would be removed (972 square feet). A new produce building would be built to make up for the area that was removed. The new building would also provide retail space now provided by the greenhouses. With their relocation, the greenhouses would no longer be able to serve as additional retail space.

8. The Phase 2 plans also include the construction of gazebos, small water features and other aesthetic/landscaping features. The Phase 2 proposals are largely conceptual and will require more precise plans and a permit modification before going forward.

9. The immediate objective is to gain long-term approval for the use involved and for the Phase 1 operations. The exact features of Phase 2 will await further permit review upon additional refinement.

10. For Phase 1, some minor structural improvements are needed for the pole building and a new drain field is needed to deal with the wash water generated by the produce stand. If the special use is approved, the appropriate building permit and Health Department approvals will need to be obtained.

11. The maximum number of employees envisioned is eight. They will work 40-hour weeks with the possibility of five 8-hour shift or four 10-hour shifts.

12. The stand will be open from April to November with the possibility of selling Christmas trees over the holidays. Peak summer hours will be from 8 a.m. to 7 p.m. Off peak hours will be from 9 a.m. to 6 p.m. The stand will be open Monday through Saturday.

13. The Phase 1 business will continue to provide parking for up to 19 vehicles. This is thought to be more than adequate for the farm stand. In phase 2 a formal parking area will be proposed.

14. Phase 1 involves no filling or grading. The business does not cause vibration, produce heat or steam, or generate excessive noise or electrical interference. Chemicals, waste oil, solvents and fuel are not stored on the site. Stormwater from the pole building flows to the existing crop/garden area, providing a source of irrigation.

15. The new pole building was constructed on property that already includes a residence, several outbuildings and greenhouses. Existing buildings are located between the newly erected building and neighbors to the south. To the north is SR 20 and across the road are commercial buildings. Commercial uses also exist to the west across Avon Allen Road. The green houses and garden/crop area separate the new building from property to the east. The new building is consistent with other pole buildings in the neighborhood and in rural Skagit County in general. It is not out of place visually.

16. The use is served by public water. No public restrooms are proposed. The employees will use the existing restroom in the existing barn. The new drain field for produce wash water will be located to the southeast of the pole building.

17. It is not anticipated that the seasonal farm stand will be a traffic generator. The objective is to capture travelers that are already driving on SR 20. As part of the agreement for access to the improved SR 20, WSDOT will monitor traffic to ensure that fewer than 100 trips per days use the access on to SR 20. The design of the Phase 2 improvement will discourage traffic from entering and exiting at the SR 20 access. Instead traffic will be encouraged to enter and exit at the Avon Allen Road entrance so that vehicles will be routed through a traffic signal.

18. A Determination of Non-Significance (DNS) was issued for this project on January 17, 2006. The DNS was not appealed.

19. The 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.

20. County departments provided comments on the proposal, all of which can be effectively addressed through conditions of approval.

21. There was no public comment on the proposal.

22. The Staff Report analyzes the application in light of the above special use criteria and determines that, as conditioned, the project will be consistent 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.

23. 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 subject matter of this proceeding.

2. The requirements of SEPA have been met.

3. As conditioned, the proposal is consistent with the applicable Special Use Permit criteria. SCC 14.16.900(2)(b)(v).

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

CONDITIONS

1. This permit provides approval for the operation of a “seasonal roadside stand” as defined in SCC 14.04.020. The stand will be dedicated exclusively to the sale of products produced in Skagit County, with at least a portion thereof grown on site.

2. Phase 1 shall be carried out as described in the application materials. For Phase 2, the applicant must submit detailed plans and seek a permit revision for the improvements contemplated.

3. The applicant shall obtain all required permits, including a building permit for the pole building, prior to the continuation of business.

4. Prior to building permit approval, the new drain field for produce washing shall be approved.

5. Prior to building permit approval, compliance with the County Flood Damage Protection Ordinance shall be demonstrated.

6. Prior to building permit approval, a letter of water availability from Public Utility District #1 shall be submitted.

7. Handicapped parking, including appropriate surfacing and signs, shall be provided as a building permit requirement.

8. Restroom facilities for employees shall meet Health Department standards.

If Health authorities require public restrooms, the applicant shall provide facilities that meet Health Department regulations.

9. Sewage disposal requirements for the restroom facilities used shall also be met as required by the Health Department

10. Health Department standards for food preparation and storage shall be met.

11. Access off Avon Allen Road must meet County Road Standards. Any change in such access shall require a permit from Public Works. A copy of the State Access Permit for access to SR 20 shall be provided to Public Works.

12. The project shall comply with County performance standards for light, glare and noise as set forth in SCC 14.16.840.

13. The applicant shall submit a site assessment report pursuant to SCC 14.24.300. In order to determine the scope of the report, all well logs within 1,000 feet of the project, with their locations, shall be submitted, along with a brief narrative of any chemicals (such as, fertilizers or pesticides) used or stored on site.

14. Seasonal roadside stand operations shall be limited to the period April to November. Christmas trees may be sold in November and December.

15. Days and hours of operation shall be as described in the application materials. Employees shall not exceed eight (8).

16. The use shall be conducted in compliance with applicable County drainage standards. Any additional permits that may be required for Phase 2 (such as a grading permit), shall be obtained in connection with the permit revisions for that phase.

17. Phase 2 actions shall be required to conform to the requirements of the Rural Reserve District.

18. Planning and Development Services shall be notified within 30 days after any change in ownership of the subject parcel by means of a letter to the Planning Director referencing PL05-0664.


19. Prior to the issuance of any permit, all outstanding planning review fees shall be paid in full.

20. The Special Use Permit shall be void if the project is not started within two (2) years of the date of final permit approval or if abandoned for one (1) year or more.

21. Failure to comply with any permit conditions may result in permit revocation.

DECISION

The requested Special Use Permit is approved, subject to the conditions set forth above.



Wick Dufford, Hearing Examiner

Date of Action: April 4, 2006.

Date Transmitted to Applicant: April 4, 2006

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.