

**BEFORE THE SKAGIT COUNTY HEARING EXAMINER**

**FINDINGS, CONCLUSIONS AND DECISION**

**Applicant:** Eric Johnston  
10542 Sterling Road  
Sedro-Woolley, WA 98284

**File No:** PL06-0998

**Request:** Special Use Permit (Home Based Business 2)

**Location:** 10542 Sterling Road, within a portion of NW1/4SE1/4  
Sec. 27, T35N, R4E, W.M.

**Parcel No:** P37775

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

**Summary of Proposal:** To fabricate and assemble sheds for “Modern Shed,” a  
Seattle based company. Fabrication and assembly shall  
occur in an enclosed shop area within the existing garage.

**Public Hearing:** After reviewing the report of Planning and Development  
Services, the Hearing Examiner conducted a public hearing  
on May 23, 2007.

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

## **FINDINGS OF FACT**

1. Eric Johnston (applicant) seeks a Special Use Permit for a Home Based Business 2 at his residential property at 10542 Sterling Road.
2. The location is Parcel #P37775 situated south of State Route 20, within a portion of the NW1/4SE1/4 Sec. 27, T35N, R4E, W.M. The zoning is Agriculture-Natural Resource Land (Ag-NRL).
3. The subject lot is approximately .4 acres in size and is located on the west side of Sterling Road. The parcel contains the last house on the west side of the road as one drives south. On the south and west is farmland. On the north and east are developed single family residences.
4. The lot is developed with a single-family residence with attach carport. South of the residence is a garage (shop) with an attached three-sided lean-to. The driveway serves both the house and the separate garage. A graveled area, approximately 20' by 35', in front of the garage, is proposed for parking. The property is served by on-site sewage and public water.
5. The property is flat and rectangular, measuring 110 feet along the east and west property lines and 158 feet along the north and south property lines. The garage and lean-to structure measures about 33' x 32' and is set back approximately 45 feet from Sterling Road. It is about 10 feet from the south property line.
6. None of this small site is in agricultural production and conducting a home based business there will have no impact on agriculture. There are no critical areas on or adjacent to the property.
7. The business has been operated on the site in the past without employees other than family members. Because outside employees are now contemplated the applicant has applied for permission to operate as a Home Based Business 2.
8. The business involves the building of sheds for "Modern Shed," a company based in Seattle. The application is to conduct fabrication and assembly activities within the enclosed garage. Activities there include light framing of the roof systems, floor systems and wall assemblies, and fabrication of various interior parts. The business does not use special solvents, oil based paints, fuels or chemicals. One room within the residence (12.5% of the floor space) is used as an office.
9. Hours of operation will be Monday through Friday from 8 a.m. to 6 p.m. and Saturdays from 9 a.m. to 1 p.m. Because the business is limited to fabrication and assembly, no customers will come to the site. The bathroom in the existing residence will meet ADA standards and will be used by employees.

10. There are several deliveries of materials each week. The gravel parking area in front of the shop combined with the driveway is designed to provide adequate parking for off street loading and unloading of raw materials, as well as for employee parking. A flower bed and hedge are planned along the road and on the south to at least partially screen the shop and the parking area from exterior views.

11. The lean-to has been used for the storage of materials. The applicant intends to add a door to the side facing the road. The effect should be to block outside views of work activities and materials. All unloaded materials will be moved inside within 24 hours.

12. A Determination of Non-Significance (DNS) under the State Environmental Policy Act (SEPA) was issued on February 12, 2007. The DNS was not appealed.

13. Three public comment letters were made about this application, all from neighbors. Two favored the application and stated that the level of activity does not bother them. The third, Thomas Tharp, opposed the application because of concerns over traffic, noise and disposal of waste materials. Mr. Tharp lives directly across the street. He testified at the hearing.

14. The applicant responded to Mr. Tharp by stating that his points are valid as to past operations, but that planned improvements should resolve the complaints.

15. Sterling Road is a relatively narrow rural road with no shoulders. In the past large delivery trucks have parked in the right-of-way, effectively restricting the space available for safe travel. The off-street material drop-off area proposed by the applicant will be adequate to accommodate the delivery trucks and eliminate this problem. In addition, future deliveries will be required to occur during business hours.

16. Earlier there was a time when several subcontractors were working on the property and there was some parking congestion with their vehicles. In the future, subcontractors will not be on site and the work force will, at least initially, consist of the Erik and Jerry Johnston and one other employee. (Three outside employees is the limit.) The result should be to relieve parking pressure. The screened parking area provided should make parked vehicles less visible.

17. The tools used in the fabrication work include a chop saw, a nail gun, an air compressor, and a table saw. Closing the garage door during work periods will provide some noise abatement. In addition, the applicant intends to install layers of insulation inside the garage to dampen sound. He is committed to meeting applicable State noise standards.

18. Tharp stated that he has been bothered by smells from wood burning in the shop and has observed the dumping of liquids in nearby agricultural fields. The

applicant responded that a burn barrel has occasionally been used for heat, but that regular trips are made to the dump. He is aware that treated wood should not be burned. He said that there was a single incident where a small amount of waste was dumped by subcontractors, but that this type of activity will not be repeated.

19. The application was circulated among County Departments. Their comments are reflected in conditions of approval.

20. SCC 14.16.900(3)(e) sets for 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, provided 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;

21. 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.

22. The Staff report analyzes the application in light of the above special and general approval 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. The improvements the applicant contemplates should significantly help to solve any compatibility problems with his neighbor. The applicant will need to be faithful in complying with the various conditions of approval to insure that his operation stays within the limits of a home based business. If it appears that the level of activity has outgrown those limits, the business will have to move.

24. 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. Notice of the application and of the hearing was properly given.
3. The requirements of SEPA have been met.

4. A Home Based Business 2 is allowed as a special use in the Ag-NRL zoning district, provided that no conversion of agricultural land is required to accommodate the business activity. SCC 14.16.400(4)(c).

5. The proposal, as conditioned, will be consistent with the applicable Special Use Permit approval criteria. SCC 14.16.900(2)(b)(v), SCC 14.16.900(3)(e).

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

### **CONDITIONS**

1. The applicant shall install the improvements described in the application materials and shall conduct the business as described therein, except as the same may be altered by these conditions.

2. The applicant shall obtain all other necessary permits and approvals.

3. Hours of operation shall be Monday through Friday from 8 a.m. to 6 p.m. and Saturday from 9 a.m. to 1 p.m. All business-related activities shall occur during these stated hours. The applicant shall take steps to insure that deliveries do not occur after hours.

4. Non-residential employees shall be limited to three (3).

5. No loading, off-loading or parking shall be allowed within the County right-of-way.

6. All delivered materials shall be moved indoors with 24 hours of delivery.

7. Best Management Practices shall be used to prevent degradation of surface and ground water quality and to insure compliance with Chapters 173-200 WAC and 173-201A WAC. The Department of Ecology should be contacted to determine if a discharge permit is required for runoff.

8. All fabrication and assembly must be performed inside the garage (shop). While work is performed the garage doors must be closed.

9. The applicant shall comply with all requirements of the Northwest Air Pollution Agency (NWAPA).

10. The applicant shall comply with Chapter 173-60 WAC and SCC 14.16.840 with regard to noise, light, vibration and ventilation.

11. Any debris resulting from the business shall be confined, properly stored onsite, and disposed of weekly at a minimum. No wastes shall be dumped on agricultural lands adjacent to the property.

12. One (1) non-illuminated sign, not to exceed four (4) square feet is allowed on site.

13. The operation shall meet ADA requirements, including the bathroom and parking.

14. The applicant shall comply with any applicable flood hazard regulations.

15. Fire sprinklers shall be installed in any wood working areas exceeding 2,500 square feet.

16. Business activity shall be confined to the existing structures on-site and shall not expand beyond those areas. Business use of the residence shall be limited to the office area identified.

17. The applicant shall comply with SCC 14.16.870, Notification of Development Activities on or Adjacent to Designated Natural Resource Lands.

18. If the level of activity expands to exceed the limitations of SCC 14.16.900(3)(e), the business shall cease at this location and move to an appropriate zoning district.

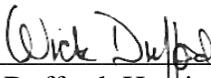
19. The Special Use Permit shall become void if activity thereunder is not started within two (2) years of the date of this decision or if the use is abandoned for a period of one (1) year.

20. Planning and Development Services shall be notified within thirty (30) days after any change in ownership of the parcel through a letter to the Planning Director referencing PL06-0998.

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

### **DECISION**

The requested Special Use Permit (Home Based Business 2) is approved, subject to the conditions set forth above.

  
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Wick Dufford, Hearing Examiner

Date of Action: June 4, 2007

Date Transmitted to Applicant: June 4, 2007

### **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.