

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

FINDINGS, CONCLUSIONS AND DECISION

Applicant: Mary L. Anderson
25209 Star View Drive
Mount Vernon, WA 98273

File No: PL08-0448

Request: Special Use Permit

Location: 25209 & 25213 Star View Road; Lot A of SP 53-78 and a portion of Lot B of SP 53-78, within a portion of SW1/2SW1/4 Sec. 20, T34N, R5E, W.M.

Parcel Nos: P30382, P113561

Land Use Designation: Secondary Forest Natural Resource Land

Summary of Proposal: To operate an existing kennel (Star View Kennels) for the breeding and selling of hypoallergenic and non-shedding dogs.

Public Hearing: After reviewing the report of Planning and Development Services, the Hearing Examiner conducted a public hearing on October 14, 2009.

Decision: The application is approved, subject to conditions.

FINDINGS OF FACT

1. Mary L. Anderson seeks a Special Use Permit to operate a kennel for the breeding and selling of hypoallergenic and non-shedding dogs. This is an unpermitted kennel that existed prior to the adoption of the current kennel regulations. It is being processed as allowed in Ordinance #020080004.

2. The facility is located at 25209 and 25213 Star View Road, in the Beaver Valley area northeast of Big Lake and southeast of Clear Lake. The property consists of Parcels P30382 and P113561, described as Lot A of SP53-78 and a portion of Lot B of SP 53-78, within a portion of SW1/2SW1/4 Sec.20, T34N, R5E, W.M.

3. The property is zoned Secondary Forest Natural Resource Land (NRL). It is approximately ten (10) acres in size and is square in shape, measuring 660' by 660'. The developed portion of the property is basically flat.

4. The subject property accessed by a driveway from a private road off of Beaver Lake Road. Adjacent properties are all heavily forested large lots with minimal development. The applicant's operation cannot be seen from off the property except from the property to the east which also has a kennel operation.

5. The property has an existing residence and several outbuildings. There are facilities for both large and small dogs. The large dogs use dog runs located approximately 80 feet from the north property line. South of these are car port structures used for small dogs. To the east of both facilities are fenced pasture areas used for dog exercise. Both a portion of the residence and a part of another residential structure to the south are used for whelping. The puppy areas have doors to an outside exercise area. The property is served by an on-site septic system and a private domestic well.

6. The large dog runs cover an area of about 30' by 200' and contain igloos which provide shelter. The ground is covered with wood shavings. The small dog area is divided into three pens each covered with a metal roof. Gravel or concrete is used on the ground. The whelping quarters are in heated areas within residential buildings. The soils on the property provide good infiltration. Drainage from the operation is absorbed on the applicant's property and does not affect surface or ground water.

7. The applicant's facility is a limited kennel involving the raising of mixed breeds for sale. The larger dogs are mixes of Standard Poodles with Labrador Retrievers, Golden Retrievers and Australian Shepherds. The smaller dogs are bred with Bichon Frise and Cavalier/ShihTzu. They are non-shedding dogs that make good pets for people with allergies. There may be as many as 25 dogs on the property at a given time. All of the dogs on site are owned by the applicants. No "outside" dogs are boarded on the property.

8. The dogs are sold through internet advertising and referrals. Most sales are concluded by persons visiting the site by appointment, although some puppies are shipped by airline to individual buyers. None of the dogs are sold to pet stores. A veterinarian makes regular visits and all of the dogs are appropriately vaccinated. The sales contract for the dogs contains a health guarantee. The dogs are also certified for air travel.

9. The only workers at the facility are family members, There are no outside employees.

10. The concrete and gravel runs are rinsed with water that drains into the pasture or backyard. Animal waste is picked up and double bagged and placed in galvanized cans. It is stored in a horse trailer along with the household garbage before it is hauled to the County Transfer Station. The applicant has provided a copy of any invoice from Waste Management to verify that they have a contract for service.

11. Because of the thick vegetation on the site, no additional landscaping is needed to shield the kennel operation from outside view. Noise has not been a problem owing to the remoteness of the site and the surrounding dense forest. The neighboring kennel on the east is probably the only place that the dogs on the applicant's site can be heard.

12. The dogs have ample area to run and play for daily exercise. The large dogs are treated regularly with trips to the river (a one-mile plus walk) where they are taught to fetch and swim.

13. If an emergency were to require evacuation of the kennels, there is ample open pasture area on the property to move the animals to. In case of a need to leave the property, the dogs could be transported out by horse trailer.

14. The county adopted comprehensive regulations governing kennels in 2008. Permits are now required for most kennels. However, under the adopting Ordinance, kennels that existed prior to July 2, 2007 are exempt from requirements for minimum acreage, minimum setbacks, and fencing between kennels and property lines. The subject operation is such a pre-existing kennel.

15. Notice of the instant application, mailing and posting were carried out as required by law. There were no public comments. A Mitigated Determination of Non-Significance (MDNS) was issued on July 28, 2009, under the State Environmental Policy Act (SEPA). The appeal period ended on August 28, 2009. There were no appeals.

16. The following conditions were placed in the MDNS:

- Solid waste shall be at a minimum double bagged and placed in metal receptacles on premises to be disposed of on a weekly schedule, either

picked up by Waste Management, Inc., another solid waste handler or taken to a solid waste transfer station.

- The bagged waste shall weigh no more than 10 pounds each.
- The receptacle(s) shall be covered and insect and rodent proofed.
- As an alternative, an approved agriculture waste plan or an approved onsite septic system used exclusively for the containment of the animal waste may be used. The septic system must be monitored and maintained at a maximum of every six (6) months.
- The applicant shall comply with SCC 14.16.840 Performance Standards.

17. The application was routed to various County departments for review. Their comments are reflected in conditions of approval. At the hearing the applicant advised that they have already made the driveway improvements requested by Public Works. Because no new structures, improvements or land clearing were proposed no critical areas review was required.

18. SCC 14.16.900(2)(i) contains specific criteria for kennels being reviewed for Special Use Permits. The subject operation is exempt from the first two paragraphs of this subsection. The applicable requirements include rules on parking, lighting, waste disposal, prevention of escapement, night-time containment, emergency evacuation, and exercise. By reference the provisions of Chapter 7.02 SCC must also be met. The latter chapter sets forth both environmental and operational requirements, to insure humane treatment of animals as well as human health. Under the facts found above, the Examiner determines that the subject facility and operation, as conditioned below, meets all of these criteria and requirements.

19. In addition, the application must be consistent with the general criteria for Special Use Permit issuance. These are set forth in 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 14.15.840.
- 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 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.

20. The Staff Report analyzes the application in light of the above criteria and finds that, as conditioned, the operation 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.

21. There was no public comment at the hearing.

22. 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)(b).

2. The requirements of SEPA have been met.

3. A Hearing Examiner Special Use Permit is required for a "limited kennel" in a Rural Reserve zoning district. SCC 14.06.320(4)(n)(ii).

4. The subject kennel is a "limited kennel" as defined by SCC 14.04.020. The operation meets the special criteria for a limited kennel. SCC 14.16.900(2)(i)(ix).

5. The operation, as conditioned, will meet all of the applicable criteria for kennels under SCC 14.16.900(2)(i), including the provisions of Chapter 7.02 SCC. In particular, adequate provisions have been made for the humane treatment of the dogs and the protection of human health.

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

CONDITIONS

1. The operation shall be conducted as described in the application materials, except as the same may be modified by these conditions.

2. The applicant shall comply with all conditions of the MDNS, issued July 28, 2009. (See Finding 17).

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

4. The kennel shall adhere to all requirements listed in Chapter 7.02 SCC and all applicable requirements of SCC 14.16.900(2)(i).

5. The applicant shall comply with the following General Kennel Waste Handling Requirements:

- Kennels need to be cleaned at regular intervals to prevent accumulation of manure that attract flies and rodents. It is recommended that the kennels receive daily cleaning.
- The collected manure needs to be double bagged (heavy duty plastic) with little or no air space in amounts of no more than about 10 pounds. Dispose of the bags with either the household garbage service or self-haul to a Skagit County solid waste handling facility. The double bagged manure (as with household garbage) needs to be stored in durable rodent and fly proof containers with tight fitting lids. The waste needs to be disposed of on a frequency that does not create a nuisance or odors.
- Kennels should be located in areas where drainage from the pads, slabs and runway wash down will be absorbed on the applicant's property and will not affect surface or ground water. Wells should be located 100 feet from kennel drainage areas.
- No more water than is necessary to clean the pads should be used. If the down gradient drainage area is limited in size or the depth of soil limited or the permeability slow it is recommended a high pressure sprayer be used to limit the amount of water used to perform wash down.
- Storage or treatment in a holding tank or on-site sewage (OSS) disposal system separate from the residential system may be used with special review and permission by the Public Health Department. An OSS must be designed or approved by a Licensed Designer or Engineer, monitored on a frequency determined by the Health Department and pumped as needed.

6. The applicant shall comply with all applicable State and County regulations, including but not limited to Chapters 173-210A and 200 WAC (water quality), Chapter 172-60 WAC (noise) and SCC 14.16.840 (performance standards for noise, vibration and light).

7. The applicant shall obtain the approval of Public Works for the improvements made to the driveway that serves the parcel.

8. Planning and Development Services (PDS) shall be notified by letter within 30 days after any change in ownership of the parcel. The letter shall reference permit number PL08-0448.

9. Per SCC 14.16.900(3), the applicant shall comply with the annual certification process, acknowledging in writing compliance with the original permit approval including any conditions.

10. All planning related fees, including recording of the decision, must be paid within 30 days of receipt of the invoice.

11. If the operation ceases for a period of one year, the permit shall be void.

12. Per SCC 14.16.900(2)(i)(xiv), this permit may be rescinded if it is discovered that the applicant has been convicted of animal cruelty as defined in Chapter 16.52 RCW.

13. Per SCC 14.16.900(2)(i)(xv), PDS may rescind this permit if the operation is found in violation of any of the provisions of Chapter 7.02 SCC.

14. Failure to comply with any of the conditions herein may result in permit revocation.

DECISION

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

DONE this 13th day of November, 2009.



Wick Dufford, Hearing Examiner

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.