

NOTICE OF DECISION

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

Applicant: Challenger Ridge Estates, LLC
c/o Ryan Costanti
P.O. Box 42
Bow, WA 98232

Request/File No: Special Use Permit, PL 14-0184

Location: 43095 Challenger Road, Concrete; Lot #10, Challenger Ridge Estates, within a portion of Sec. 8, T35N, R8E, W.M. Parcel No. P43510

Land Use Designation: Rural Reserve (RRv)

Summary of Proposal: To install and operate a marijuana producer/processor operation. The project includes using an existing 2,500 square-foot structure and constructing a 2,400 square-foot greenhouse within six (6) years.

SEPA Compliance: A Determination of Non-Significance (DNS) was issued on August 21, 2014. No appeal.

Public Hearing: January 14, 2015. Testimony by County and Applicant. No public testimony. Planning and Development Services (PDS) recommended approval.

Decision/Date: The application is approved, subject to conditions. February 9, 2015.

Reconsideration/Appeal: A Request for Reconsideration may be filed with PDS within 10 days of this decision. The decision may be appealed to the Board of County Commissioners by filing an appeal with PDS within 14 days of the date of decision or decision on reconsideration, if applicable.

Online Text: The entire decision can be viewed at:
[www.skagitcounty.net/hearing examiner](http://www.skagitcounty.net/hearing_examiner)

FINDINGS OF FACT

1. Challenger Ridge Estates LLC (Ryan Costanti) seeks a Special Use Permit to install and operate a marijuana producer/processor operation under the terms of Washington State Liquor Control Board Initiative-502.
2. The project area is a 1.36-acre site, identified as Lot #10 of the Challenger Ridge Estates land division. The property is located at 43095 Challenger Road, Concrete, within a portion of Sec. 8, T35N, R8E, W.M. The lot currently contains the existing winery buildings and tasting room associated with Challenger Ridge Winery. The site is bordered by Challenger Road to the south and is surrounded by the existing winery vineyard.
3. The operation will initially use an existing 2,500 square-foot structure. A new 2,400 square-foot structure to the north of the existing building is planned to be built within six years. The operation is anticipated to commence operations as soon as approved.
4. The applicant's intent is to lease the land and buildings to growers. The operation will require two individuals on site -- the operator and one employee. The business will be operated as a farming operation and will not be open to the public,
5. The operation will use existing parking created for the winery. Access will be via existing public and on-site roads. No traffic impacts are anticipated.
6. There are two water sources on the site: an existing Group A public water system using a permit-exempt well, and a surface water claim (S1-030209CL) recognized by the Department of Ecology for one acre-foot per year.
7. The plan is for the project operator to use existing on-site port-a-potties. Therefore no septic system will be needed. If plumbing is ever proposed, a permit will be required.
8. Surrounding land uses are primarily rural and agricultural in nature. There are scattered residential uses in the vicinity.
9. The project is located within a Rural Reserve (RRv) zoning district. Agricultural processing uses are generally permitted within the zone. However, because indoor production is proposed, the use category becomes "wholesale nurseries/greenhouses" requiring a Hearing Examiner Special Use Permit. Use of the "wholesale nurseries/greenhouses" category is consistent with the County's "I-502 Marijuana Permitting" memorandum.
10. A Notice of Development Application and SEPA (State Environmental Policy Act) comment period was published on July 31, 2014. A DNS under SEPA was issued on August 21, 2014. The DNS was not appealed. There were no public comments. Notice of Public Hearing was published on December 25, 2014. There was no public testimony at the hearing.
11. The application was circulated to various County departments. Their comments are reflected in conditions of approval. Critical areas review was previously approved with PL06-0668.
12. The criteria for approval of 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 will comply with the Comprehensive Plan.

- b. The proposed use complies with 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 Resources 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 with no adverse effects on the services of the surrounding areas, or conditions can be established to mitigate adverse impacts on such facilities.

13. The Staff analyzed the proposal against the above criteria and determined that, as conditioned, the project will comply with them. The Hearing Examiner concurs in this analysis and adopts the same. The Staff Report is by this reference incorporated herein as though fully set forth.

14. The applicant stated that the proposal will lessen public impacts, noting, "We are going from an open to the public winery and tasting room that has public events to a closed farm."

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

CONCLUSIONS OF LAW

- 1. The Hearing Examiner has jurisdiction over this proceeding. SCC 14.06.050(b)(ii).
- 2. The requirements of SEPA have been met.
- 3. The proposed use requires a Special Use Permit. SCC 14.16.320(4)(aa),
- 4. The project, as conditioned, is consistent with the criteria for Special Use Permit approval. SCC 14.16.900(1)(b)(v).
- 5. Any finding herein which may be deemed a conclusion is hereby adopted as such.

CONDITIONS

- 1. The project shall be carried out as described in the application materials, except as the same may be modified by these conditions.
- 2. The applicant shall obtain all other approvals required and shall abide by the conditions of same.

3. Indoor production associated with the wholesale greenhouse operation shall be limited only to production within the two identified structures. Any proposed additional structures shall require additional review.

4. The proposed 2,400 square foot greenhouse structure shall be applied for/constructed within six years of the date of approval.

5. The applicant shall comply with all relevant state and local regulations, including but not limited to, Chapter 14.24 SCC (Critical Areas), Chapter 14.16 SCC (zoning), SCC 14.16.840 (performance standards), Chapter 173-60 WAC (noise), Chapters 173-201A and 173-200 WAC (surface and ground water quality).

6. As long as there is no plumbing, a septic system is not required. If a building or structure with plumbing is proposed, a permit will be required. Only human waste will be allowed into a septic system.

7. If rain water collection is approved in the future, it will be considered non-potable usage for a public system. All bibs shall be signed as "non-potable" and no sinks will be allowed. The applicant may contact the State Department of Health for further questions on rainwater and its allowed uses. Rain water systems require a water system engineer and permitting.

8. Ecology conditioned approval is based on a metered surface use (S1-030209CL) for one acre foot per year and the 20-01 Skagit In-stream rule. All Ecology requirements for reporting and usage shall be followed. (See 8-12-14 ECY, J. Rose letter.)

9. The project shall meet the State Liquor Control Board specifications for the disposal of waste. The waste must be ground with 50% non-marijuana waste to make it unusable, making it into a legal product and eliminating the THC. The project shall also meet the requirements of Chapter 12.16 SCC (solid waste).

10. The following drinking water conditions shall be met: a) No more than 5,000 gallons may be used per day; b) Daily monitoring of usage is required; c) A Satellite Management Agency (SMA) is required to manage the system.

11. Building permits are required for all existing or proposed buildings. Plans must demonstrate compliance with the 2012 International Codes for an F1 occupancy classification.

12. All outstanding planning review fees shall be paid prior to final approval.

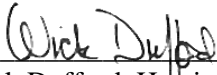
13. The Special Use Permit shall be void if work is not started within two (2) years of the date of this decision, or if the use is abandoned for a period of one (1) year.

14. Failure to comply with any condition may result in revocation, suspension or modification of the Special Use Permit by the Hearing Examiner.

DECISION

The requested Special Use Permit (PL14-0184) is approved, subject to the conditions set forth above.

SO ORDERED, this 9th day of February, 2015.



Wick Dufford, Hearing Examiner

Transmitted to Applicant on February 9, 2015

See Notice of Decision, Page 1 for Reconsideration and Appeal information.