



200306240101

Skagit County Auditor

6/24/2003 Page

1 of

12 1:50PM

AFTER RECORDING RETURN TO:
SKAGIT COUNTY HEARING EXAMINER
302 SOUTH FIRST STREET
MOUNT VERNON, WA 98273

DOCUMENT TITLE: ORDER ON SPECIAL USE SU 02 0624 and
SHORELINE SUBSTANTIAL DEVELOPMENT SL 02 0622

HEARING OFFICER: SKAGIT COUNTY HEARING EXAMINER

APPLICANT: CITY OF ANACORTES

ASSESSOR PARCEL NO: P19984, P117222, P19957, P96104, & P19986

LEGAL DESCRIPTION: The proposed improvements are located within a portion of
Sections 4 and 5, Township 34 north, Range 2 east, W.M., Skagit County, Washington.

**SKAGIT COUNTY HEARING EXAMINER
STATE OF WASHINGTON**

In the Matter of:

CITY OF ANACORTES,

Applicant,

Special Use Permit and Shoreline
Substantial Development Permit
applications.

SMMP PL02-0622

SPU PL02-0624

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

This matter having come regularly before the Skagit County Hearing Examiner for a public hearing on June 11, 2003 under an application filed with the Planning Department by the applicant, City Of Anacortes, seeking both a Special User Permit and Shoreline Substantial Use Permit. The real property is located as follows: The water transmission line replacement proposed by the City of Anacortes trends east-west and extends from Sharpes Corner on the south side of SR 20 to the intersection of South March Point Road and Thompson Road on the north side of SR 20. The proposed pipeline will cross under SR 20 at its intersection with Christianson Road. That portion of the waterline that is within County jurisdiction extends from east of Sharps Corner approximately 2,500-feet to Christianson Road. The proposed improvements are located within a portion of Sections 4 and 5, Township 34 north, Range 2 east, W.M., Skagit County, WA (parcels P19984, P117222, P19957, P96104, P19986).

The Assessor's Account Numbers for this property are 340205-0-039-0008, 340205-0-039-0206, 340205-0-021-0008, 340205-0-040-0500 & 340205-0-040-0005.

The City of Anacortes has filed a Special Use application (PL02-0624) and a Shorelines Substantial Development application (PL02-0622) for the installation of 5,960 linear feet of new 24-inch diameter water transmission line. The water transmission line will be installed under wetlands, associated buffers, roads and sensitive areas using jack and bore techniques. The new water transmission line will replace an aged section of an existing 24-inch diameter steel water transmission line. This pipeline will be part of the City of Anacortes regional water supply system. The system includes two large diameter, high pressure, water transmission lines used to convey water from the treatment plant on the Skagit River, to the City of Anacortes and other customers in Skagit and Island Counties. The transmission mains include a 36-inch diameter pipeline, currently in good condition, and an older 24-inch pipeline. The reliability of the older 24 inch line is poor and must be replaced. The new 24 inch pipeline is scheduled to be installed in the summer and fall of 2003 and the project should take approximately 5 months to complete. The completed



200306240101

Skagit County Auditor

project will not result in any above ground structures

FINDINGS OF FACT

1. **ZONING/COMPREHENSIVE PLAN and SMMP DESIGNATIONS.** The subject property within Skagit County jurisdiction, Parcel 19984, is designated Rural Reserve as is located on the Comprehensive Plan and Zoning maps adopted July 24, 2000. The application was determined to be complete on November 6, 2002 and is vested under the Comprehensive Plan and zoning regulations in effect at that time. The remainder of the project is within an incorporated area of the City of Anacortes. That portion of the project located within Skagit County jurisdiction is designated Rural under Skagit Countys Shoreline Management Master Program.
2. **PROCESSING.** Pursuant to Section 14.06.100 of the Skagit County Code (SCC), a Notice of Development Application was posted on the subject property and published in a newspaper of general circulation on November 21, 2002 as required by Section 14.06.150 of Skagit County Code.
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 (DNS) was issued on January 2, 2003. Under the optional DNS process, WAC 197-11-355, Skagit County issued a comment period for this proposal with the Notice of Development Application. The following conditions were placed on the threshold determination:
 - Temporary erosion/sedimentation control measures, as approved by the Skagit County Department of Public Works, shall be in place prior to the placement of any fill material pursuant to Skagit County Code (SCC) 14.24.32, Drainage Ordinance. The applicant shall maintain all temporary erosion/sedimentation control measures in accordance with the Skagit County Drainage/Erosion/Sedimentation Control Ordinance. Said measures shall remain in place until completion of the project.
 - The project shall comply with noise limitations and light requirements pursuant to SCC 14.16.840-5 and SCC 14.16.840-3, respectively.
 - The public right-of-way shall be kept clean. Tracking of mud and debris from the site will not be allowed.
 - The applicant shall comply with Northwest Air Pollution Authority requirements.
 - Disturbance to wetlands and any associated buffer shall be avoided. Any disturbance to wetlands and associated buffers, as indicated in the Wetlands Site Assessment report by MWH, dated July 2002, as a result of the project shall be restored to its previous function and value.



200306240101

Skagit County Auditor

6/24/2003 Page

3 of 12 1:50PM

There was no appeal of the DNS issued by the County.

4. **SPECIAL USE PERMIT REQUIREMENTS:** The applicant is requesting a Special Use permit pursuant to Skagit County Code 14.16.320 (4)(u) Rural Reserve. Hearing Examiner Special Use permits are processed as a Level II permit as outlined in SCC 14.06.120 Level II Review Procedures.
5. **CRITICAL AREA REVIEW:** The subject parcel was reviewed with the respect to the Skagit County Critical Areas Ordinance, 14.24 of the Skagit County Code. The results of the critical areas review indicated that two critical areas/conditions were on or within 200 feet of the proposed development, which include Fish and wildlife habitat conservation areas, and wetlands areas. Based on the presence of wetlands and shorelines within 200 feet of the proposed waterline, the applicant submitted a wetlands site assessment and a fish and wildlife assessment as required by SCC 14.24.200 and SCC 14.24.500, respectively. The applicant has indicated that the waterline will be installed under wetlands, associated buffers, roads and sensitive areas using jack and bore techniques. Based on these techniques, the applicant asserts that the proposed project will not impact critical areas or associated buffers. Staff approved Critical Areas with the condition that any impact to critical areas resulting from the water transmission line installation shall be repaired to its previous function and value immediately following construction.
6. **SPECIAL USE PERMIT CRITERIA:** Skagit County Code Section 14.16.900 Special Uses indicates that certain items will be reviewed when approving or denying Special Use permits. Those items are as follows:

A. The proposed use will be compatible with existing and planned land use and comply with the Comprehensive Plan.

The proposed water transmission line installation and use is compatible with Rural Reserve zoned and the City of Anacortes Incorporated parcels located in the vicinity of the subject property. Scattered commercial and industrial businesses are located in the vicinity of the proposed waterline. The proposed water transmission line installation is largely compatible with existing and planned surrounding land uses and zoning designations. Rural residential development is sparsely located in the area. Given the performance standards and state regulations related to noise and plans to minimize impact to critical areas, impacts to land uses have been substantially addressed in the proposal and shall be minimal.

The proposal is consistent with Goal A and Objective 1 of the Comprehensive Plan, Utilities Element.

Goal: To assist in providing high quality, cost effective and safe utility services at low environmental cost by coordination and consistency among utility providers and comprehensive plans; integration of utility facility plans and capacity needs;



200306240101
Skagit County Auditor

joint use of transportation right of ways and utility corridors; environmentally sensitive siting of utility facilities; maintenance of facilities and utility corridors; underground installation of utility distribution lines where possible; encouraging conservation of water and energy, and encouraging research and implementation of alternative energy resources.

The proposal is consistent with the following Comprehensive Plan policies and objectives:

OBJECTIVE 2: ENCOURAGE SAFE, RELIABLE AND QUALITY UTILITY SYSTEMS

10A-2.1 Utility providers shall build and manage utility systems to provide reliable service and to meet the needs of future growth.

OBJECTIVE 4: PROVIDE ENVIRONMENTALLY SENSITIVE MAINTENANCE PROCEDURES FOR UTILITY CORRIDORES.

10A-4.4 Normal and routine maintenance or repair of existing utilities shall use reasonable methods with the least amount of potential impact to environmentally sensitive or critical areas and any impact to these areas or its buffer shall be restored after the maintenance to the maximum extent possible.

Objective 6: Encourage underground utility distribution lines to reduce visual and safety impacts of overhead (above ground) lines where economically feasible.

10A-6.1 Utility providers shall be encouraged to provide underground installation of utility lines.

B. The proposed use complies with Skagit County Code.

The subject parcel is designated as Rural Reserve and the use is allowed by special use permit in these zoning designations.

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.

Rural residential development is limited near the site. Potential residential development is limited to one home per ten acres in the Rural Reserve zoning designation. Potential impacts to surrounding, existing or potential dwelling units from the proposed operation are limited to construction activities and have been found to be minimal.

Noise. The principal existing sources of noise in the vicinity of the site are automobile and heavy truck traffic on State Route 20, intermittent traffic



200306240101

Skagit County Auditor

including trucks on Christianson Road, and industrial oil refining activities located near March Point Road north of the site.

Noise will be produced on-site as a result of construction/installation operations. This noise will be produced by trucks, front-end loaders, bulldozers, and boring equipment.

Odor and Heat

No odors or heat are projected to occur with the proposed activities that would impact surrounding residential, commercial or industrial land uses or the environment.

Vibration

Heavy equipment will be used during construction/installation and will generate minimal local vibration in earth moving. No vibrations are projected to occur with the project that would be noticeable to neighboring property owners or that would impact land uses in the surrounding area.

Air

The primary pollutants resulting from the project are particulate matter associated with excavation and transport. Trucks will generate small amounts of CO, VOC and NOx but the impact of these emissions is not expected to be measurable or dangerous. Emissions of VOC and NOx are only significant on a regional scale and will have no impact on surrounding land uses. The project will have no significant impacts on air quality in the surrounding area.

Water Pollution

Stormwater: All proposed improvements must meet the requirements of Skagit County Code 14.32 Drainage.

Groundwater: Potential impacts to groundwater resources resulting from onsite operations are primarily limited to fuel and oil releases resulting from the operation of heavy equipment and from improper storage or handling of hazardous materials that may be stored onsite. Impacts to groundwater resources would likely result from a surface release of hazardous materials that infiltrate into the soil and migrate downward to groundwater resources. Although a risk of hazardous material impact to groundwater resources may be present on the subject site, this a minimal risk and does not represent a significant concern.

Conformance to the local and state environmental regulations and mitigation measures outlined in the staff report and as well as proposed permit conditions will insure that water pollution will not result from project implementation.

D. The proposed use will not generate intrusions on privacy of surrounding uses.



200306240101

Skagit County Auditor

TRAFFIC: Project related traffic, including transport trucks and equipment will be entering and exiting the project site during construction/installation of the water transmission line. After construction/installation, the project should not result in a net increase on existing traffic patterns.

VISIBILITY: Based on the installation of the proposed water transmission line underground, there will be minimal indications of the water transmission line.

Review of the water transmission line installation plan indicates that minimal significant aesthetics issues will impact the surrounding area due to the water transmission line replacement.

LIGHT/GLARE: Lights from transport trucks and equipment will be produced during early morning and early evening hours of construction/installation phase. No light or glare from the finished project will be a safety hazard or interfere with neighboring views.

E. Potential effects regarding the general public health, safety, and general welfare.

Based on a review of the environmental documentation and the proposed plan, it does not appear that the general welfare of Skagit County or the surrounding area will be negatively affected by the proposed water transmission line replacement. The proposal is compatible with surrounding land uses. The operation will provide needed resources for Skagit County, Island County and the City of Anacortes and will maintain the area's water supply services. Mitigation and project conditions have been designed to address any identified concerns related to the public health, safety and general welfare. Compliance with local, state and federal environmental regulations, as well as permit conditions, will insure that the general welfare of Skagit County citizens is protected.

F. For special uses in Industrial Forest – Natural Resource Lands, Secondary Forest – Natural Resource Lands, and Rural Resource – Natural Resource Lands, the impacts on long-term natural resource management and production will be minimized.

The proposed site is not located in areas designated as Industrial Forest-Natural Resource Lands, Secondary Forest-Natural Resource Lands, or Rural Resource-Natural Resource Lands.

G. The proposed use is not in conflict with the health and safety of the community.



200306240101
Skagit County Auditor

The approval of a Special Use permit for the proposed uses will not impact the health and safety of the community provided that Best Management Practices are maintained, that all permit conditions and environmental mitigation measures are implemented as required by the permit conditions.

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.

The proposed land uses will be supported by adequate public facilities and services with minimal adverse affects on the services of the surrounding areas during construction.

7. **SHORELINE MANAGEMENT MASTER PROGRAM CRITERIA:** Skagit County's SMMP, SCC 14.26, requires that certain items will be reviewed when approving or denying SMMP permits for utilities. Those items are as follows:

A) Utilities – Policies - General

- 1) **Coordination.** Utility development proposals should be consistent and coordinated with all federal, state, and/or local planning functions and efforts, including comprehensive plans.

This proposal is consistent with local planning functions and efforts, including comprehensive plans.

- 2) **Existing Use Areas.** Utilities should utilize existing right-of-ways and corridors and should avoid duplication and construction of new or parallel corridors.

The location of the proposed water transmission line is adjacent and south of the existing 24 inch diameter and 36 inch diameter water lines except for 2000 ft of water transmission line south and east of Sharpes Corner. The water transmission line deviates to the south of the existing right of way in order to minimize potential impacts to critical areas (wetlands).

- 3) **Joint Use.** Utilities should coordinate with government agencies and private interests in developing or utilizing joint or common use right-of-way and corridors in shoreline areas unless it can be shown to be infeasible.

The utility is a replacement water transmission line for the City of Anacortes and use by residents of the City of Anacortes. Fidalgo Island



200306240101
Skagit County Auditor

and Island County. Based on the proposed multiple use of the proposed water transmission line, it appears the proposal meets the SMMP criteria for joint use.

- 4) **Multiple Use.** Utility development should, through coordination with local government agencies, provide for compatible, multiple use of sites and right of ways. Such uses include shoreline access points, trail systems, and other forms of recreation and transportation, providing such uses will not unduly interfere with utility operations, endanger public health and safety, or impose an economic or physical liability on the owner.

The water transmission line installation and operation, within Skagit County Jurisdiction, is proposed to be located on the northern end of a recreational facility (golf course). It is not anticipate that operation of the golf course will unduly impact operation of the water transmission line. The proposal to install the water transmission line at this location would meet the criteria for Multiple use.

- 5) **Natural resources, processes and other uses.** Utility development, if permitted in shorelines, should not significantly damage, diminish, or adversely affect prime agricultural land, natural resources, fish and wildlife habitat and migratory routes, geohydraulic processes, water quality, or public access.

Based on the information provided by the applicant, the location of the proposed water transmission line will not have a direct impact on the above referenced resources and processes.

B) Utilities – Policies - Location

Utility development should be located to avoid wetlands, tidelands, lagoons, estuaries, wildlife concentration areas, wildlife nesting areas, migratory bird flight corridors, designated parks and recreation areas, and sensitive shoreline areas unless it can be shown that non-shoreline alternatives are infeasible.

The proposed waterline transmission route was positioned to avoid sensitive areas and minimize encroachment into shoreline areas. For those areas in which encroachment is unavoidable, jack and bore techniques (subsurface drilling) are proposed to avoid/ minimize impact to sensitive shoreline areas.

C) Utilities – Policies - Design.

- 1) **Installation and maintenance.** During installation of utility components and corridors on shorelines, Appropriate measures should be taken to



200306240101
Skagit County Auditor

regraded to the natural terrain, replanted and maintained. Adequate buffer areas should be established in shoreline areas. Parking areas and access roads for utility development should be located inland from shoreline areas. New or replacement utilities should be placed underground.

These mentioned design criteria have been included in the water transmission line design or are included in the staff report as recommendations for conditions of shoreline substantial development permit approval.

- 2) **Parking areas and access roads** for utility development should be located inland from shoreline areas except where public access roads or paths to shorelines areas are provided.

Based on review of the design plans provided by the applicant, all parking and access roads are located inland from shoreline areas.

- 3) **Underground Utilities.** Whenever existing overhead or above ground utility distribution facilities along shorelines require replacement or upgrading, or when new systems are planned for new or existing residential density development, commercial areas, and other development shoreline use, such utilities shall be placed underground.

The applicant proposes to install the water transmission line underground.

- D) **Impacts.** Utility development proposals, if allowed in shorelines, should take all feasible measures to mitigate adverse impacts to the shoreline and aquatic environment and to adjacent and nearby land and water uses.

Based on review of the information submitted by the applicant, the applicant has taken all feasible measures to avoid or mitigate impacts to sensitive shoreline areas.

- 2) **Utilities – Regulations**

- A) **Shorelines**

Rural. Utility development is permitted subject to the general and tabular regulations.

Under Tabular Shoreline Area Regulations- Utilities, The shoreline setback from the OHWM, wetland edge, bluff crest for utility lines, building, and accessory uses, except buried lines, are assigned a shoreline setback of 150 feet in shoreline areas designated as Rural. Buried lines, such as proposed for this project, appear exempt from the setback



200306240101

Skagit County Auditor

requirement. However, the proposed water transmission line is proposed to be located approximately 200 feet from the OHWM.

B) General

- 1) **Existing use areas.** Utilities, specifically power, communications, pipelines, and fuel lines shall utilize existing right of way, corridors, and/or bridge crossings and shall avoid duplication and construction of new or parallel corridors in all shoreline areas.

The proposed waterline replacement will utilize an existing right-of-way corridor that has been expanded to accommodate the proposed water transmission line and only deviates from the previous right-of-way to minimize impact to critical areas and sensitive shoreline areas.

- 7) **Screening and buffer areas.** Utility development allowed on shorelines shall utilize the setbacks areas for screening of facilities from water bodies. Need for screening shall be judged on a case by case basis.

The water transmission line is proposed to be installed underground. Therefore, replanting disturbed appear sufficient and screening may not be required.

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 Special Use Permit Criteria of the SCC.
3. This project complies with the requirements of the Skagit County Shoreline Management Master Program.

DECISION AND ORDER

The Hearing Examiner now **approves** the Special Use Permit PL02-0624 for the proposed waterline replacement by the City of Anacortes with the following conditions:

- 1) State Water Quality Criteria, Surface Water WAC 173—201A and Ground Water WAC 173-200, shall be complied with, as shall WAC 173-60 "Maximum Environmental Noise Levels" for noise and light.
- 2) Temporary erosion/sedimentation control measures shall be in accordance with the Skagit County Code 14.32 Drainage.
- 3) The applicant shall comply with Northwest Air Pollution Authority requirements.



200306240101
Skagit County Auditor

- 4) The applicant shall comply with all relevant provisions of Skagit County Code 14.24 Critical Areas Ordinance and Skagit County Code 14.16 Zoning.
- 5) Aesthetic impacts shall be minimized through practices outlined in the SEPA checklist.
- 6) If this request is approved, the applicant shall submit a copy of the Hearing Examiner's written order (decision) with the grading permit application.
- 7) An approved and recorded Protected Critical Area easement shall be submitted to the Planning and Permit Center referencing the file number PL02-0624 prior to commencement of operations.
- 8) Copies of all easement agreements submitted with the Special Use application and those required to provide access shall be recorded with the Skagit County Auditor. Copies of such recordings shall be submitted to the Planning and Permit Center and shall reference file number PL02-0624.
- 9) As per SCC 14.16.900 (2)(b)(v)(d), the project shall be commenced within 2 years of permit approval.

The Hearing Examiner now **approves** the Shorelines Substantial Special Use Application PL02-0622 for the proposed waterline replacement by the City of Anacortes with the following conditions:

- 1) Appropriate measures shall be taken to prevent or control all runoff and erosion.
- 2) Affected shoreline areas shall be re-graded to the natural terrain, replanted and maintained.
- 3) Adequate buffer areas shall be established in shoreline areas.
- 4) Parking areas and access roads for utility development shall be located inland from shoreline areas.

Dated this 23 day of June, 2003.



C. Thomas Moser
Skagit County Hearing Examiner, Pro Tem



200306240101
Skagit County Auditor