



200402110076

Skagit County Auditor

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

DOCUMENT TITLE: ORDER ON SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT  
SL 03 0167 and SPECIAL USE PERMIT SU 03 0935

HEARING OFFICER: SKAGIT COUNTY HEARING EXAMINER

APPLICANT: SKAGIT COUNTY PUBLIC WORKS

ASSESSOR PARCEL NO: P#: 68175

LEGAL DESCRIPTION: The proposed improvements will be located within the Right-of-Way of Gibraltar Road and within an easement conveyed to the County by Quaker Cove Corporation on a parcel located at 14745 Gibraltar Road, Anacortes, WA; a portion of the SW ¼ of Section 17, Township 34 North, Range 2 East, W.M., Skagit County, Washington.

**BEFORE THE SKAGIT COUNTY HEARING EXAMINER  
FINDINGS, CONCLUSIONS AND DECISION**

**Applicant:** Skagit County Department of Public Works  
1800 Continental Place  
Mount Vernon, WA 98273

**File Nos:** PL03-0167, PL03-0935

**Requests:** Shorelines Substantial Development Permit  
Special Use Permit

**Location:** Within the right-of-way of Gibraltar Road and within an easement conveyed to the County by Quaker Cove Corporation on a parcel located at 14745 Gibraltar Road, on Fidalgo Island. The project is within a portion of the SW1/4, Sec. 17, T34N, R2E., W.M.

**Land Use Designations:** Shorelines: Rural Residential  
Comp Plan: Rural Intermediate

**Summary of Proposal:** To construct a minor stormwater utility, including underground installation of 12 catch basins and approximately 850 linear feet of 12-inch diameter drain pipe, discharging to Similk Bay. Approximately 420 linear feet of the project will be within 200 feet of the Ordinary High Water Mark (OHWM). The purpose is to control surface runoff from Gibraltar Road and thereby reduce erosion of the adjacent coastal bluff.

**Public Hearing:** After reviewing the report of the Planning and Permit Center, the Hearing Examiner conducted a public hearing on January 14, 2004.

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



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## FINDINGS OF FACT

1. The County Public Works Department seeks permits for the construction of a storm drain system to collect and transport stormwater runoff from the roadside on both sides of a pedestrian underpass on Gibraltar Road to a discharge point just above the OHWM of Similk Bay.
2. The project will consist of 12 underground catch basins and approximately 850 linear feet of 1-in diameter drain pipe. The pipe will be placed within the public right-of-way adjacent to Gibraltar Road and within a 30-foot easement located on property owned by the Quaker Cove Corporation. About 420 linear feet will be within 200 feet of the OHWM.
3. The purpose of the system is to relieve routine flooding and reduce erosion damage to the steep bluff face on the seaward side of Gibraltar Road. A significant portion of the bluff and the beach below have been lost in recent years. The project will reroute storm flows and alleviate the saturation of the bank.
4. The existing drainage flows from the uphill area north of the road to the bluff. Development north of the road has created new impervious surfaces resulting in increased runoff. The project will collect the storm flow along the road and then conduct it down an existing relatively gradual grade to the beach. The project will outfall to a dissipator at a point about 10 feet landward of the OHWM. The anticipated flow from the system will be less than 3.0 cfs. No adverse impacts on the beach or to the bay are expected.
5. The shoreline and upland along the road at the project site are owned by the Quaker Cove Corporation which runs a camp there. Quaker Cove is anxious to see this project go forward so that the loss of property that has been occurring can be arrested. They have granted an easement across their land for the lower portion of the new drainage system. The camp uses an underpass beneath Gibraltar Road which is sometimes flooded and impassable under present conditions. The project should solve this problem.
6. The development surrounding the site is residential. Public Works is convinced that the project will help to prevent landslides and ultimately will protect the road.
7. The easement is on a parcel located at 14745 Gibraltar Road. The project is within a portion of the SW1/4 of Sec. 17, T34N, R2E, W.M. The subject lands are designated as Rural Intermediate on the Comprehensive Plan and Zoning maps. They are within a Rural Residential environment under the County Shoreline Master Program (SMP).
8. An environmental checklist and a critical areas checklist were submitted. A Fish and Wildlife Site Assessment report was prepared. The Assessment concluded that the project will not result in a net loss of habitat function. The Assessment recommended a mitigation and monitoring plan. The recommendations are that the road ditch lines, adjacent to the project be hydroseeded and that other disturbed areas be planted with native woody vegetation.



Bioengineering techniques are suggested to stabilize and re-vegetate the bluff and the area adjacent to the pipe outlet.

9. Monitoring is recommended on the bluff and at the outlet area for two years to verify that there have been no detrimental effects to the beach. Re-vegetation is to be monitored for three years to insure 80% survival after that period of time. If the 80% survival level is not reached, replanting is to occur. Regular maintenance is to be performed on the catch basins.

10. The Staff urges that the Assessment's mitigation and monitoring recommendations be made conditions of project approval.

11. A Determination of Non-Significance (DNS) under the State Environmental Policy Act (SEPA) was entered on October 12, 2003. The DNS was not appealed.

12. The project was designed under the title "Quaker Cove Drainage Improvement Project" by the County Department of Public Works. Only one letter of public comment was received. The letter, from an engineer, asserted that the western portion of the drainage collection system is oversized. These comments were made available to Public Works for review.

13. There is no alternative to locating a portion of this system within shorelines jurisdiction. The SMP contemplates the installation of pipes and outfalls crossing the shoreline, provided that they cause no adverse impacts on the shore environment or on other uses. Buried lines are not subject to a shoreline setback.

14. The Staff has reviewed the project for conformity with the Special Use Criteria of SCC 14.16.900(2)(b)(v) and finds that, as conditioned, the proposal will comply with the criteria. 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.

15. The project is likely to reduce flooding and to provide the erosion protection intended. It will, therefore, affirmatively contribute to the health, safety and welfare of the community. It will not place new burdens on existing infrastructure.

16. 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. The procedural requirements of SEPA have been met.



3. The project is a substantial development as defined by the Shoreline Management Act and requires a Substantial Development Permit. RCW 90.58.140.

4. As a minor utility, the project also requires an administrative Special Use Permit. SCC 14.16.300(3). Because two development permits are needed, the two permit processes are consolidated into a single proceeding before the Hearing Examiner. SCC 14.06.060.

5. Under the facts, the proposal, as conditioned will be consistent with the criteria for approval of a Shoreline Substantial Development Permit. SMP 9.02.

6. Under the facts, the proposal, as conditioned, will be consistent with the criteria for a Special Use Permit. SCC 14.16. 900(2)(b)(v).

7. The following conditions should be imposed:

(1) The project shall be constructed as described in the application materials, except as the same may be modified by these conditions.

(2) The applicant shall comply with the recommendations for mitigation and monitoring set forth in the Fish and Wildlife Assessment dated October 8, 2003. A mitigation monitoring report shall be submitted to the Planning and Permit Center on an annual basis for a period of two years, beginning December 15, 2004. The monitoring report shall include contingency plans as necessary to meet the performance criteria of the mitigation plan.

(3) The applicant shall obtain all other required permits prior to construction.

(4) The applicant shall comply with applicable State regulations concerning surface water quality, ground water and maximum environmental noise levels. See Chapters 173-201A, 173-200 and 173-60 WAC.

(5) Temporary erosion/sedimentation control measures shall be used during construction in accordance with Chapter 14.32 SCC (Drainage).

(6) During construction the applicant shall comply with Northwest Air Pollution Authority requirements.

(7) Copies of all easement agreements required for the project, including any easement needed to provide access, shall be recorded with the County Auditor. Copies of the recorded documents shall be submitted to the Planning and Permitting Center and shall reference file numbers PL03-0167 and PL03-0935

(8) Per SCC 14.16.900(2)(d), the project shall be commenced within two years of permit approval. The project shall be completed within five years of permit approval or the shoreline permit shall become null and void.



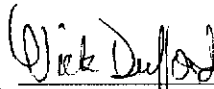
(9) No disturbance to the critical area or buffer shall occur closer than 10 feet landward of the OHWM of Similk Bay.

(10) Failure to comply with any of these conditions may result in permit revocation.

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

### DECISION

The requested Shoreline Substantial Development Permit and Special Use Permit are approved, subject to the conditions set forth in Conclusion 7 above.



Wick Dufford, Hearing Examiner

Date of Action: February 9, 2004

Date Transmitted to the Parties: February 9, 2004

### RECONSIDERATION/APPEAL- SPECIAL USE PERMIT

As provided in SCC 14.06.180, a request for reconsideration may be filed with the Planning and Permit Center 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 the Planning and Permit Center within 14 days after the date of the decision, or decision on reconsideration, if applicable.

### RECONSIDERATION/APPEAL - SHORELINES PERMIT

As provided in the Skagit County Shoreline Master Program, Section 13.01, a request for reconsideration may be filed with the Planning and Permit Center within five (5) days after the date of this decision. The decision may be appealed to the Board of County Commissioners by filing a written Notice of Appeal with the Planning and Permit Center within five (5) days after the date of decision, or decision on reconsideration, if applicable.

