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Skagit County Planning and Permit Center



200410280106  
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10/28/2004 Page 1 of 9 9:31AM

**SKAGIT COUNTY PLANNING AND PERMIT CENTER  
FINDINGS OF FACT**

**HEARING AUTHORITY:** SKAGIT COUNTY PLANNING AND PERMIT  
CENTER ADMINISTRATIVE OFFICIAL

**APPLICATION NUMBER:** ADMINISTRATIVE SPECIAL USE REQUEST  
PL04-0330

**APPLICANT:** DONALD R. CLARK  
**ADDRESS:** 58468 CLARK CABIN ROAD  
ROCKPORT, WA 98283

**PROJECT LOCATION:** Located at 58468 Clark Cabin Road, Rockport, within a  
portion of Sections 14 & 23, Township 35 North, Range 10 East W.M., situated within  
Skagit County, Washington.

**PROJECT DESCRIPTION:** Administrative Special Use Permit application #PL04-  
0330 for the construction and operation of a minor (water) utility development system.  
The project proposal includes the construction of two 79,400 gallon, 26-foot diameter by  
20-foot high Mt. Baker Silo concrete reservoirs. The proposed water utility system will  
serve potable water to the local "Bullerville" area.

**ASSESSOR'S ACCOUNT NUMBER/** 351023-0-004-0006, P45481  
**Parcel #:** 351023-0-004-0200, P105151  
351023-2-003-0003, P45522  
351023-0-004-0105, P45482  
351023-0-003-0114, P45478  
351023-0-024-0002, P45505  
351014-0-009-0507, P45323

351023-0-024-0100, P105140  
351023-0-021-0104, P45501  
351023-0-023-0003, P45504  
351023-0-022-0004, P45503  
351014-3-005-0000, P45355

**ZONING/ COMPREHENSIVE PLAN:** The proposed project is located within a Rural Reserve (RRv), Rural Intermediate (RI), and Small Scale Recreation and Tourism (SRT) zoning/comprehensive plan designated area as indicated in the Skagit County Comprehensive Plan and associated maps adopted July 24, 2000 and as thereafter amended.

**DEPARTMENTAL FINDINGS:**

1. The proposed project is located within a Rural Reserve (RRv), Rural Intermediate (RI), and Small Scale Recreation and Tourism (SRT) zoning/comprehensive plan designated area as indicated in the Skagit County Comprehensive Plan and associated maps adopted July 24, 2000 and as thereafter amended. The application was determined to be complete on July 2, 2004.
2. Per Section 14.06.100 of the Skagit County Code (SCC), a letter of completeness was issued. A Notice of Development Application was posted on the subject property and published in a newspaper of general circulation on July 8, 2004 as required by SCC 14.06.150(2). There was a fifteen (15) day comment period associated with the Notice of Development which ended on July 23, 2004. There were five (4) comment letters received during the comment period. The four comment letters are as follows:
  - a. Letter received on July 14, 2004 from Marshal Cooper, President and CEO of Buffalo Run Corporation, 58179 Highway 20, Rockport, WA 98283 with concerns about the proposal and the grant money received by Mr. Clark.
  - b. Letter received on July 15, 2004 from Doris Buller, 58161 Highway 20, Rockport, WA 98283, with concerns about being required to hook into the water system.
  - c. Email received on July 17, 2004 and letter received on July 19, 2004 from Steve and Nancy Johnson, 58062 Highway 20, Rockport, WA 98283, in opposition of the project and the placement of water lines on the south and east side of State Route 20.
  - d. Letter received on July 21, 2004 from Gary V. Lundquist 58238 Highway 20, Rockport, WA 98283, regarding concerns about the impact on the ground water supply.



The Department notes that an additional letter was received on August 3, 2004, not within the "Notice" comment period, from Mr. Gary Lundquist, 58238 Highway 20, Rockport, WA 98283 with additional concerns regarding Mr. Clark's 20 year plan.

3. 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 Non-Significance (MDNS) was issued on August 5, 2004, and became effective following a fifteen-day (15) comment period that ended on August 20, 2004 and a fourteen-day (14) appeal period that ended on September 3, 2004. The following conditions were placed on the threshold determination:
  - a. Temporary erosion/sedimentation control measures, as approved by the Skagit County Department of Public Works and/or the Department of Natural Resources, shall be in place prior to the placement or movement of any fill material. The applicant shall maintain all temporary erosion/sedimentation control measures in accordance with the Skagit County Drainage Ordinance. Said measures shall remain in place until completion of the project.
  - b. The applicant shall comply with Northwest Air Pollution Authority requirements.
  - c. The applicant shall comply with the provisions of Chapter 14.32 of the Skagit County Code, the Skagit County Drainage Ordinance.
  - d. The applicant shall comply with Fire Code Standards.
  - e. An engineered soils compaction report shall be required for all structures placed on fill material.
  - f. The applicant shall comply with all relevant provisions of 14.24 (Skagit County Critical Areas Ordinance).
  - g. Skidder, tractor, cat and/or shovel yarding shall be prohibited at time of high soil moisture. Skidding shall stop if soil rutting exceeds 10 inches in depth until soils dry.
  - h. The public right-of-way shall be kept clean. Tracking of mud and debris from the site will not be allowed.
  - i. A Copy of this MDNS and the approved Department of Natural Resources Forest Practice permit shall be kept on site and made available to inspecting agencies during all phases of harvest activity.
  - j. Applicant shall adhere to the submitted site plan. Revisions or alterations must be approved by Skagit County and the DNR prior to any deviation.

The Department notes that one (1) comment letter was received during the SEPA comment period. There were no appeals filed. The comment letter received was from Skagit River Systems Cooperative, Larry Wasserman, 11426 Moorage Way, LaConner, WA 98257. The comment letter raises concerns regarding future development intensions along the Skagit River and the evaluation of cumulative



effects of the project for future uses (cabins) between Highway 20 and the Skagit River.

4. The project was reviewed with respect to the Skagit County Critical Areas Ordinance (CAO) 14.24 of the Skagit County Code. Critical Areas staff comments are as follows: "A site visit was conducted on July 8, 2004 to review for critical areas. No critical areas were observed within 200 feet of the project area as shown on the site plans. Provided the applicant strictly adheres to the site plans for the "Bullerville Utility District Service Area map, Preliminary routes for water Mains" and "Selective Harvest area map," no further CAO review will be required for this project."
5. The portion of the subject property located to the north of State Route 20 is not located within a designated flood hazard area. The portion of the property lying south of State Route 20 is located within a A9 designated flood hazard area as identified by FEMA on Flood Insurance Rate Map (FIRM) #530151 0310 C with the effective date of January 3, 1985.
6. The subject proposal is located in eastern Skagit County, within the Rockport area, located along State Route 20. The project proposal identifies the storage tank placement to be located along the northwestern portion of the property, with the distribution lines serving the property on both (north and south) sides of State Route 20.
7. The applicant is requesting an Administrative Special Use Permit for the construction and operation of a minor (water) utility development system. The project proposal includes the construction of two 79,400 gallon, 26-foot diameter by 20-foot high Mt. Baker Silo concrete reservoirs. The proposed water utility system will serve potable water to the local "Bullerville" area. The entire distribution system will be supplied from booster pumps. The initial set of four booster pumps will supply both domestic demand and 500 gallons per minute (gpm) of fire flow. An emergency generator will be provided to supply emergency power to operate a 7.5 hp booster pump plus building load. The new distribution mains will be installed mostly in easements parallel to the County road rights-of-way. One crossing of State Highway 20 is planned. The proposal includes 4-inch, 6-inch, and 8-inch distribution lines, along with five (5) fire hydrants, with the distribution mains sized to provide 500 gpm fire flow to residential areas with a future capacity of 1,000 gpm fire flow. The proposed reservoirs, and a portion of the upper (northeastern) water line, are located within a Rural Reserve (RRv) zoning/comprehensive plan designated area, with the remainder of the water line located to the south and southeast within portions of the Rural Intermediate (RI) and Small Scale Recreation and Tourism (SRT) zoning/comprehensive plan designated areas. SCC 14.16.320 (3)(b) "Rural Reserve (RRv)", SCC 14.16.300(3)(b) "Rural Intermediate (RI)" and SCC14.16.130(4)(d) "Small Scale Recreation and Tourism (SRT) designations



list out "Minor Utility Developments" as Administrative Special Use Permits. Further, SCC 14.04.020 defines minor utility developments as "utility developments designed to serve a small local community, are not manned and would be considered normal utility services for the area."

- 8. The majority of the surrounding area is rural and residential in nature. The proposed water utility will serve Clarks Cabins and the Clark property ownership being referred to as "Bullerville." The property consists of scattered rental cabins, a café, and associated tourism uses.
- 9. The application was routed to the Environmental Health Unit (septic) for review. No concerns were noted from Skagit County Planning and Permit Center Environmental Health unit.
- 10. The application was routed to the Skagit County Public Works Department for comments. No concerns were noted from Skagit County Public Works.
- 11. The application was routed to the Fire Marshal's office for review. The Fire Marshal's office had no concerns with the proposal.
- 12. The application was routed to the Skagit County Health Department for review. The Health Department stated the following:

"In regards to the Bullerville Utility District aka Skagit River Resort, please note that prior to the issuance of building permits, there are four conditions that need to be met:"

- a. "State Department of Health approval of the Water System Plan,"
- b. "State Department of Health approval of the engineering documents,"
- c. "State Department of Ecology Water Rights issues, and
- d. A fully signed Skagit County Service Area Agreement (CWSP)."

- 13. The application was routed to the Water Resources Division of the Skagit County Planning and Permit Center for review. Water Resources deferred comments to the Skagit County Health Department.
- 14. Skagit County Special Use Permit Criteria. Section 14.16.900 (2) Special Use Permit requirements of the Skagit County Code 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 Skagit County Comprehensive Plan does not specifically provide policies that either support or oppose the proposed project. However, the proposal is located within the Rural Reserve (RRv), the Rural Intermediate (RI), and the Small Scale Recreation and Tourism (SRT) designations, all of which allow for minor utility developments designed to serve a small local community and are not manned (reference SCC 14.16.130, 14.16.300 and 14.16.320 respectively).

B. The proposed use complies with the Skagit County Code.

The proposed reservoirs, and a portion of the upper (northeastern) water line, are located within a Rural Reserve (RRv) zoning/comprehensive plan designated area, with the remainder of the water lines located to the south and southeast within portions of the Rural Intermediate (RI) and Small Scale Recreation and Tourism (SRT) zoning/comprehensive plan designated areas. SCC 14.16.320 (3)(b) "Rural Reserve (RRv)", SCC 14.16.300(3)(b) "Rural Intermediate (RI)" and SCC 14.16.130(4)(d) "Small Scale Recreation and Tourism (SRT) designations list out "Minor Utility Developments" as Administrative Special Use Permits. Further, SCC 14.04.020 defines minor utility developments as "utility developments designed to serve a small local community, are not manned and would be considered normal utility services for the area."

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.

The department notes that the proposal will be required to be in compliance with the performance standards outlined within SCC 14.16.840. The department further notes that the application will be required to be in compliance with the State Department of Health and State Department of Ecology requirements.

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

The proposed use will not generate intrusions on privacy of surrounding uses. After construction is completed, the reservoir site will be unmanned and will only be accessed by authorized personnel for routine monitoring and maintenance.

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

There will be no negative effects on the neighborhood, region, general public health, safety, or welfare as a result of this project provided the site is maintained and operated in compliance with the state and local requirements. The parking area will be on site and will not create any new potential impacts.



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

There will be no impacts on natural resource management or production as a result of the proposed project.

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

The proposed use will not create a conflict with the health and safety of the community provided all local, state and federal regulations are complied with.

- 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 proposal will be supported by adequate facilities and will not adversely affect public services to the surrounding areas.

### DECISION

The Administrative Official hereby **approves** the application for a Special Use Permit, subject to the conditions and modifications listed below:

1. The applicant shall obtain all necessary land use approvals.
2. The proposal shall be in compliance with the performance standards outlined within SCC 14.16.840.
3. Operation of equipment/construction and daily operations shall comply with SCC 14.16.840 for light, vibration and noise conditions.
4. The applicant shall comply with the conditions outlined within the SEPA threshold determination outlined within Finding #3. Said conditions are as follows:
  - a. Temporary erosion/sedimentation control measures, as approved by the Skagit County Department of Public Works and/or the Department of Natural Resources, shall be in place prior to the placement or movement of any fill material. The applicant shall maintain all temporary erosion/sedimentation control measures in accordance with



- the Skagit County Drainage Ordinance. Said measures shall remain in place until completion of the project.
- b. The applicant shall comply with Northwest Air Pollution Authority requirements.
  - c. The applicant shall comply with the provisions of Chapter 14.32 of the Skagit County Code, the Skagit County Drainage Ordinance.
  - d. The applicant shall comply with Fire Code Standards.
  - e. An engineered soils compaction report shall be required for all structures placed on fill material.
  - f. The applicant shall comply with all relevant provisions of 14.24 (Skagit County Critical Areas Ordinance).
  - g. Skidder, tractor, cat and/or shovel yarding shall be prohibited at time of high soil moisture. Skidding shall stop if soil rutting exceeds 10 inches in depth until soils dry.
  - h. The public right-of-way shall be kept clean. Tracking of mud and debris from the site will not be allowed.
  - i. A Copy of this MDNS and the approved Department of Natural Resources Forest Practice permit shall be kept on site and made available to inspecting agencies during all phases of harvest activity.
  - j. Applicant shall adhere to the submitted site plan. Revisions or alterations must be approved by Skagit County and the DNR prior to any deviation.
5. There shall be no maintenance of vehicles or equipment on the property.
  6. Prior to the issuance of building permits, the following four conditions shall be met:
    - a. State Department of Health approval of the Water System Plan.
    - b. State Department of Health approval of the engineering documents.
    - c. State Department of Ecology Water Rights issues.
    - d. A fully signed Skagit County Service Area Agreement (CWSP).
  7. Construction of this water system (minor utility development) does not justify approval of future development proposals.
  8. Review of this proposal did not include environmental review for future development proposals.
  9. The special use permit shall be void if not started within (2) two years of the final approval date of this order and if abandoned for a period of 1 (one) year. Per SCC 14.16.900(2) (d) this special use permit shall be void if a completed building permit application has not been submitted within two (2) years of the date of this order.



UNOFFICIAL DOCUMENT

The applicant and/or party of record may appeal the decision of the Administrative Official to the Skagit County Hearing Examiner pursuant to the provisions of Section 14.06. Every appeal to the Hearing Examiner shall be filed with the Planning and Permit Center within fourteen (14) calendar days after the date of the decision.

  
Brandon Black, Associate Planner

Approved By:

  
Brent Morrow, MS, MPA, Senior Planner  
*On Behalf of Gary Christensen, AICP*  
Planning and Permit Center Director

Date of Preliminary Approval: 10-12-04  
Date of Final Approval: 10-26-04  
Prepared By: BB

Clark ASPU

#PL04-0330



200410280106  
Skagit County Auditor

10/28/2004 Page

9 of

9 9:31AM