

NOTICE OF DECISION

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

- Applicant:** Shell Puget Sound Refinery (PSR)
c/o Steve Nelson
8505 South Texas Road
Anacortes, WA 98221
- Contact:** AECOM
c/o Jeff Walker
1111 3d Avenue, Suite 1600
Seattle, WA 98101
- Request:** Conditional Use Permit (CUP), PL18-0027
- Location:** Shell PSR on March's Point, 8505 South Texas Road, Anacortes, within a portion of Sec. 33, T35N, R2E, W.M. Parcel No P33502. The site is the #3 Hydrotreating Unit on 4th Street.
- Land Use Designation:** City of Anacortes Urban Growth Area (UGA), Anacortes UGA Urban Development District (A-UD); site classified as Heavy Manufacturing (HM).
- Summary of Proposal:** Upgrade to Hydrogen Treating Unit #3 to meet new U.S. Environmental Protection Agency standards for further reducing sulfur in gasoline. The project includes a new stabilizer column that will be 106 feet tall.
- SEPA Compliance:** Mitigated Determination of Non-Significance (MDNS) issued November 28th, 2017. No appeals
- Public Hearing:** June 13, 2018. Testimony by Planning and Development Services (PDS) staff and applicant's representatives. No public testimony.
- Decision/Date:** The application is approved, subject to conditions. June 21, 2018
- Reconsideration/Appeal:** Reconsideration may be requested by filing with PDS within 10 days of this decision. Appeal is to the County Commissioners by filing with PDS within 14 days of this decision, or decision on reconsideration if applicable.
- Online Text:** The entire decision can be viewed at:
www.skagitcounty.net/hearingexaminer

FINDINGS OF FACT

1. Shell Puget Sound Refinery seeks a Conditional Use Permit to construct a project to meet new U. S. Environmental Protection Agency (EPA) standards for sulfur in gasoline. The project is called the HTU-3 TIER III Gasoline Project.
2. The project involves upgrading the HTU-3 located immediately south of 4th street in the southeastern corner of the process area on the refinery property. The refinery is located on March's Point at 8505 South Texas Road, Anacortes, within a portion of Sec. 33, T35N, R2E, W.M. The parcel number is P33502.
3. The project will be within the City of Anacortes Urban Growth Area in a district called the Anacortes UGA Urban Development District (A-UD). The City of Anacortes classifies the site as Heavy Manufacturing (HM).
4. The HTU-3 is situated in the interior of the refinery. Much of the existing facility is screened by evergreen and deciduous trees to the south and other refinery structures to the east and west. Surrounding land uses will be unaffected by the project.
5. The project will include a new stabilizer column extending approximately 106 feet above grade. This feature requires a Conditional Use Permit under Anacortes' rules which establish a 50 foot height limit for the zone. The application is being process by the County as a Level II application.
6. In addition to the stabilizer column and associated equipment the project will also include: (a) a new catalytic distillation hydrodesulphurization (CDHDS) bottoms reactor; (b) an upgrade to the existing CDHDS column internal feed tray; (c) new vent gas compressor; (d) modifications to the existing recycle compressor; and (e) an upgrade to the existing reboiler heat exchangers and condensate system.
7. Overall, the project is a permitted use within the HM district. Only the 106-foot stabilizer column requires conditional use approval.
8. The HTU-3 will be operational all day every day except during maintenance and refinery shutdowns. No new employees will be needed. Current employees will work at the site periodically for inspection and maintenance activities.
9. Construction of the new stabilizer column will occur after the Conditional Use Permit is issued in 2018.
10. The project site is accessed off of 4th Street via a short gravel-surface access road. No new internal access roads are proposed. Operation of the upgraded HTU-3 is not expected to affect traffic on public roads. No new parking spaces will be needed.
11. The upgraded HTU-3 will not increase the need for public services. The project will use existing drainage systems which are adequate for anticipated stormwater runoff.

12. The applicant provided photo-simulations demonstrating that the new HTU-3 with its tall stabilizer column will blend in with the existing refinery structures. These include the 115-foot-tall H2S Stripper, the 195-foot-tall CD Hydro Naphtha Splitter, the 140-foot-tall CDHDS column, the 115-foot-tall Naphtha Stabilizer, and the 165-foot-tall CDHDS Reboiler Furnace.

13. The application was posted, published and mailed as required by law. No comments were received during the public comment period. Two comment letters from public entities were received during processing. One from the City of Anacortes and the other from the Assistant State Archaeologist. Shell responded to each of these letters. There are no agency objections to the project.

14. SEPA review resulted in issuance of a Mitigated Determination of Non-Significance on November 18, 2017. No appeals were filed. The MDNS contains the following conditions:

(1) Temporary erosion/sedimentation control measures, as approved by the Skagit County Planning and Development Services, shall be in place prior to the placement of any fill material. The applicant shall maintain all temporary erosion/sedimentation control measures in accordance with the Skagit County Stormwater Management Ordinance. Said measures shall remain in place until completion of the project.

(2) The applicant shall comply with Northwest Clean Air Agency requirements.

(3) The applicant shall comply with the provisions of Chapter 14.32 of the Skagit County Code, the Skagit County Stormwater Management Ordinance, as it relates to increased runoff resulting from additional impervious surfaces.

(4) The applicant shall comply with Fire Cord Standards.

(5) An engineered soil compaction report shall be required for all structures placed on fill material.

(6) The applicant shall comply with all relevant provisions of 14.24 of the Skagit County Code (Skagit County Critical Areas Ordinance).

(7) The project will be subject to one of Ecology's National Pollutant Discharge Elimination System (NPDES) permits. A Construction Stormwater General or Industrial Permit may be required by the Department of Ecology (WSDOE) for this project. Contact the WSDOE Bellingham Field Office at (360) 715-5200.

(8) In accordance with the Inadvertent Discovery Plan (Cultural Resources Assessment dated November 21, 2017), should any human remains, archaeological, historic or cultural materials be discovered during construction, work in the affected area shall cease immediately and the area shall be secured. Within 24 hours of the discovery, or as soon thereafter as possible, the developer shall notify the Skagit County Sheriff's office, Skagit County Planning and

Development Services, the Washington State Department of Archaeology and Historic Preservation and affected tribes. If following consultation with the above parties it is determined that an archaeological and cultural resource assessment is required, the project developer shall retain the services of a professional archaeologist to prepare such an assessment. Project work in the affected area shall only continue when in conformance with applicable state and federal laws.

15. The Staff reviewed the application under the City of Anacortes conditional use criteria and determined that, as conditioned, the project will meet the criteria. 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.

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 this proceeding. SCC 14.06.050(1)(b), SCC 14.16.220. Under Anacortes regulations, the application required Hearing Examiner review and is thus a Level II decision pursuant to SCC 14.06.120.

2. Under SCC 14.16.220, uses may be allowed within Anacortes' urban growth areas if they are consistent with the standards for the property identified by the City. Anacortes permits industrial, processing, and shipping terminal uses in HM zones. The proposed use is consistent with Anacortes' standards with the exception of the height limit of 50 feet.

3. Under Anacortes regulations, the requested height for the new stabilizer column requires a Conditional Use Permit as set forth in in AMC 19.36.040. The Staff analysis shows that the proposal, as conditioned, complies with these criteria.

4. The requirements of SEPA have been met.

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. All required permits shall be obtained and their conditions complied with.

3. The applicant shall comply with all relevant provisions of the Skagit County Code, including but not limited to Chapter 14.24 SCC (critical areas) and Chapter 14.16 SCC (zoning).

4. The applicant shall comply with all relevant State regulations, including but not limited to Chapter 173-60 WAC (noise), Chapters 173-201A and 173-200 WAC (surface and ground water quality).

5. The applicant shall comply with all conditions of the SEPA MDNS, issued November 28, 2017. (See Finding #14 above.)

6. Call the Fire Marshal for fire sprinkler and confidence tests prior to final. (360) 416-1842.

7. A building permit and other associated development permits will be required. A copy of this decision shall be submitted with the building permit.

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

9. Failure to comply with any condition may result in permit revocation.

ORDER

The requested Conditional Use Permit (PL18-0027) is approved, subject to the conditions set forth above.

SO ORDERED, this 21st, day of June, 2018.



Wick Dufford, Hearing Examiner

Transmitted to applicant and county staff and other parties in interest June 21, 2018.

See Notice of Decision, page 1, for appeal information.