

NOTICE OF DECISION

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

Applicant: AI Project LLC
c/o Michael Murray
113 Cherry St., Unit 2499
Seattle, WA 98104

Contact: Waterfront Construction
Attn: Steve Zuvela
205 NE Northlake Way, Suite 230
Seattle, WA 98105

Request: Shoreline Substantial Development Permit and
Shoreline Variance, PL16-0288

Location: East side of Allan Island within and adjacent to Burrows
Bay, within NW1/4 Sec. 4, T34N, R1E, W.M.

Shoreline Designation: Conservancy

Summary of Proposal: To replace an existing dock, moorage float and breakwater with
a new elevated dock, ramp and combined moorage/breakwater
float. Existing treated wood will be replaced with non-toxic
materials, providing a 50% grated surface. The dock will be
shifted to the west to avoid being located over an eelgrass bed.
The float will be beyond the eelgrass bed over a depth which will
allow moorage at all tidal levels.

SEPA Compliance: Determination of Non-Significance (DNS), issued March 7, 2017.
No appeals.

Public Hearing: July 26, 2017. Testimony by Staff and by Applicant's contractor.
No public testimony.

Decision: The application is approved, subject to conditions.

Reconsideration/Appeal: Reconsideration may be requested by filing with Planning and
Development Services (PDS) within 5 days of this decision.
Appeal is to County Commissioners by filing with PDS within
5 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. A.I. Project LLC (applicant) seeks permission to replace an existing dock and moorage float with a new elevated dock, ramp and breakwater/float.
2. The project will be located on the east side of Allan Island in Burrows Bay. The island is located within the NW1/4 Sec. 4, T34N, R1E, W.M. Allan Island is west of Fidalgo Island and south of Burrows Island.
3. The applicant owns the entire 292-acre largely undeveloped island. There is a single-family residence on the upland as well as several outbuildings. These were mostly built in 1985. The island has been subdivided into a number of parcels but they all remain in a single ownership. There is a grass airstrip near the center of the island.
4. As part of the current Aquatic Lands Lease agreement with the State Department of Natural Resources, the applicant must replace the treated wood in the existing dock with non-toxic materials, and the float and dock must be made to provide a 50 percent grated surface. To meet the conditions of the lease, the applicant decided to replace existing structures.
5. The new 2,145 square foot dock will be constructed with chemonite treated framing and have a fully grated deck, supported by galvanized steel pipe piles. A fully grated gangway ramp will lead to a new 2,176 square foot fully grated combined breakwater and moorage float. All creosote treated members will be removed.
6. The location of the dock will shifted to the west to avoid being located over an eelgrass bed. The grating of the new structure will increase daylight to the seabed. The new float will be located beyond the eelgrass bed in a minimum depth of -14', allowing moorage without grounding at all tidal levels and avoiding impact on the eelgrass. Replacing the current float with an elevated dock that is fully grated will most likely result in eelgrass spreading into the area.
7. The creosote treated materials removed will be ultimately be transported to a proper landfill.
8. The dock, ramp and float will be prefabricated in the contractor's Seattle yard and transported to the site on a construction barge. The new dock will be installed from the barge during daylight hours.
9. The demolition and construction will occur within an approved work window established by the State Department of Fish and Wildlife and the U.S. Army Corps of Engineers. The project will take 10-12 weeks to complete.
10. The proposed replacement structure will not adversely affect navigation. Nearby Burrows Island and Young Island are largely owned by the State and are used for recreation. No cumulative impact is anticipated from this project.

11. The applicant must obtain a number of other permits from State and Federal authorities. No opposition to this project is anticipated.

12. The proposal was given notice by the County as required by law. No comments from members of the public were received. A Determination of Non-Significance (DNS) was issued under the State Environmental Policy Act (SEPA) on March 7, 2017. The DNS was not appealed.

13. The County Staff reviewed the proposal for consistency with the policies and regulations of the local Shoreline Master Program (SMP). The Staff found that, as conditioned, the project will be consistent with the SMP. 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.

14. Construction with non-toxic materials and the grating of decks to admit light should produce improved water quality and aquatic habitat. Open pile construction should insure no impact on geohydraulic processes and water circulation.

15. The variance request is for the height of the handrail on the dock. The dock can be no lower and still be elevated above high tide. The handrail is required by the International Building Code and is necessary for safe access. The handrail variance is the minimum necessary to afford relief. The public interest will not be detrimentally affected.

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. SMP 9.06.

2. The requirements of SEPA have been met.

3. The proposal as conditioned meets the criteria for approval of a Shoreline Substantial Development Permit and Shoreline Variance Permit. SMP 9.02, 10.03.

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

CONDITIONS

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

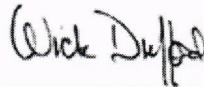
2. The applicant shall obtain all other required permits and abide by the conditions of same.

3. The conservation measures listed in the Biological Evaluation prepared by Jen-Jay Diving, Inc. dated October 2016 shall be taken.
4. The materials removed from the current structure shall be disposed of as required by appropriate State and Federal agencies.
5. The applicant and its contractors shall comply with all applicable State and local regulations, including but not limited to: Chapters 173-200 and 173-201A WAC (surface and ground water quality), and Chapter 14.32 SCC (temporary erosion/sedimentation control).
6. A copy of this decision shall be submitted with the building permit application.
7. The project shall be commenced within two years of the Shoreline Variance approval and completed within five years thereof.
8. If the applicant proposes any modification of the proposal, it shall notify Planning and Development Services (PDS) prior to the start of construction.
9. Failure to comply with any conditions of approval may result in permit revocation.

DECISION

The subject application (PL16-0288) for a Shoreline Substantial Development Permit and Shoreline Variance Permit is approved, subject to the conditions set forth above.

SO ORDERED, this 4th, day of August, 2017



Wick Dufford, Hearing Examiner

Transmitted to Applicant, Waterfront Construction, and County Staff, August 4, 2017.

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