

NOTICE OF DECISION

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

Applicant: Port of Skagit
c/o Sara Young
15400 Airport Drive
Burlington, WA 98233

Agent: Eldred & Associates
c/o Jennifer Aylor
5205 South 2nd Ave., Suite A
Everett, WA 98203

Request: Height Variance, PL16-0319

Location: Within Port of Skagit Business Park, lots 23 and 24, addressed as 11749 and 11719 Westar Lane, Burlington, within a portion of Sec. 34, T35N, R3E, W.M. Parcel Nos: P115582 and P115583.

Land Use Designation: Bayview Ridge Light Industrial (BR-LI)

Summary of Proposal: To build four grain elevators that extend to a height of 65 feet, The BR-LI height limit is 50 feet.

SEPA Compliance: Exempt

Public Hearing: September 28, 2016. Testimony by Staff and Applicant. No public testimony. Planning and Development Services (PDS) recommended approval.

Decision/Date: The application is approved, subject to conditions. October 5, 2016

Reconsideration/Appeal: Reconsideration may be requested by filing with PDS within 10 days of this decision. Appeal is to 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. The Port of Skagit seeks approval of a variance to construct four grain elevators to a height of 65 feet.
2. The location is within the Port of Skagit Business Park on lots 23 and 24, addressed as 11749 and 11719 Westar Lane, Burlington, within a portion of Sec. 24, T35N, R3E. W.M.
3. The property is within the Bayview Ridge Light Industrial zone (BR-LI). It is also within Airport Environs Overlay, Zone 6. The two parcels total 8.77 acres in size.
4. The project involves building four grain elevators to a height of 65 feet. The height maximum for the zone is 50 feet. The elevators will serve the operations of the Skagit Malting Company.
5. County Critical Areas staff advised that the project is in compliance with the Skagit WIN (Wetland Industry Negotiation of 1994) program (Port of Skagit Wetland Inventory program).
6. The application was determined to be complete on July 18, 2016. Notice of Development Application was posted, published and mailed on July 21, 2016. No public comments were received.
7. The application was routed to County departments. None had objections.
8. The project contemplates the immediate construction of two elevators with the other two to be built in the near future. The operation will involve the transportation of materials to and from the site by truck.
9. Planning and Development Services reports that the Federal Aviation Administration height limit within Zone 6 in this area is 160 feet.
10. The Staff report notes that the business park is located near rich Skagit valley farm land. The Staff states: "This location has been found to be an ideal balance of rural agricultural areas for malting grains, within an agriculturally-friendly business park where the applicant's roasting facilities are located, next to the airport to ensure prompt delivery of malted products to their customers."
11. The Staff analyzed the application under the variance criteria of SCC 14.10.030 and found that, as conditioned, the proposal will be consistent with 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.
12. Skagit Malting Company developed these two lots previously with malting infrastructure. The proposed grain elevators must be located adjacent to the existing facility. It is not feasible to locate them elsewhere.

13. The Bayview Ridge Light Industrial zone (BR-LI) was intended for this kind of development. The creation of the zone, an adopted urban growth area, is a special circumstance that does not exist elsewhere in the County. Other height exceedances within the zone have been allowed.

14. The reasons set forth in the application justify the granting of the variance. The variance is the minimum that will make possible the reasonable use of the land for the allowed purpose. The granting of the variance will be in harmony with the general purpose and intent of the Unified Development Code. It will not be injurious to the neighborhood or otherwise detrimental to public welfare.

15. 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(b)(i).
2. The application is exempt from the procedural requirements of the State Environmental Policy Act. WAC 197-11-800(6).
3. The underlying use is a permitted use in the BR-LI zone. SCC 14.16.180(2)(k).
4. The proposal, as conditioned, meets the variance criteria of SCC 14.10.030.
5. 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, 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. A copy of this variance approval shall be submitted with all subsequent building permits.
4. The proposal shall comply with applicable zoning provisions, including SCC 14.16.180, SCC 14.16.210 and SCC 14.16.215.
5. The application shall comply with all other applicable state and local regulations, including but not limited to SCC 14.16.840 (noise, light, vibration) and Chapter 173-60 WAC (noise). Ventilation by doors and windows is not an approved method of noise abatement.
6. All outstanding planning review fees shall be paid prior to final approval.

7. PDS shall be notified of any change of ownership of the operation within 30 days of the change.

8. Failure to comply with any conditions of approval may result in permit revocation.

DECISION

The requested height variance (PL16-0319) is granted, subject to the conditions set forth above.

SO ORDERED, this 5th day of October, 2016.

Wick Dufford, Hearing Examiner

Transmitted to Applicant and County staff, October 5, 2016.

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