

NOTICE OF DECISION

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

- Applicant:** Skagit County Parks and Recreation
c/o Brian Adams
1730 Continental Place
Mount Vernon, WA 98273
- Contact:** Skagit Fisheries Enhancement Group
c/o Sue Madsen
P.O. Box 2497
Mount Vernon, WA 98273
- Request:** Shoreline Substantial Development Permit, PL18-0095;
Special Use Permit Modification, PL 18-0186
- Location:** Near the confluence of the Skagit and Cascade Rivers within the community of Marblemount, at 59924 State Route 20. The site is within the NE1/4 Sec. 13, T35N, R10E, and NW1/4 Sec. 18, T35N, R11E, W.M. Parcel #'s P45194, P46151, P45191, P46150, P46152, P46175, P130473, P124415.
- Shoreline Designation:** Rural (within a Shoreline of Statewide Significance)
- Summary of Proposal:** (1) To restore fish habitat by reconnecting a side channel to the Skagit River; (2) to improve camping sites, picnicking facilities and trails at Pressentin Park.
- SEPA Compliance:** Determination of Non-Significance (DNS), dated June 19, 2018. No appeals.
- Public Hearing:** March 27, 2019. Testimony by Planning and Development Services (PDS) staff and applicant. Two members of the public testified.
- Decision/Date:** The application is approved, subject to conditions. April 5, 2019.
- Reconsideration/Appeal:** Reconsideration may be requested by filing with PDS within 5 days of this decision. Appeal is to the 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. Skagit County Parks and Recreation, in co-operation with the non-profit Skagit Fisheries Enhancement Group, seeks permission to reconnect a side channel to the Skagit River and to improve facilities at Presentin Park in the community of Marblemount.
2. The project site is at 59924 State Route 20, within NE1/4 Sec.13, T35N, R10E, and NW1/4 Sec. 18, T35N, R11E, W.M. The shoreline environment is Rural. This portion of the Skagit River is a shoreline of statewide significance.
3. Presentin Park is an existing county park near the confluence of the Skagit and Cascade Rivers. The unincorporated town of Marblemount is located north of the park. The area includes numerous small businesses and single family homes. The Skagit River forms the east, south and west boundaries of the park.
4. The park is popular with local residents for walking, fishing, birding, skiing and other recreational uses. A majority of the site is covered with native trees and shrubs. Portions are mowed and maintained. Numerous pedestrian trails have been permitted on site.
5. The primary goal of the present project is to reconnect a historic and now-isolated side channel to the main Skagit River. This will increase the amount of stable spawning habitat and winter floodplain rearing habitat for juvenile Chinook, steelhead, and other salmonid species in the upper Skagit River basin.
6. The inlet and outlet of the relic side channel have been largely filled with sediment over time. The channel is well preserved and generally surrounded by forest. Reconnection of the channel with river will involve removal of approximately 38,360 cubic yards of sediment that has been deposited over time. Approximately $\frac{3}{4}$ of the materials removed will be retained on site. Excavated soils will be used to construct approach ramps to bridges proposed across the reactivated channel and will be placed along the base of the high terrace on the west side of the park to create a ramp with slopes supporting ADA accessible trails. Excavated soils will also be spread on the northwest corner of the floodplain meadow to create a level surface for a picnic area and associated open grassy field. Any remaining excavated material will be hauled offsite for disposal at a nearby gravel pit.
7. Work within the historic side channel will include the installation of 8 engineered log structures to reduce velocity and provide habitat. The channel will be crossed by three bridges – two for pedestrians and one for access by county maintenance vehicles. These bridges will be made of pre-fabricated modular weathering steel.
8. Additional improvements to the park will include the installation of an informational kiosk in the parking area, an 1800-square-foot picnic shelter, camping pads and a small pad for a seasonal porta-potty. A water line with a hose bib will be installed at the picnic shelter. The impervious surface to be developed within the 100-year floodplain is approximately 45,826 square feet. New impervious surface will be offset by conversion of approximately 217,000 square feet (5 acres) of pasture to native floodplain forest.

9. Because of the time involved in acquiring permits, construction of the project will probably not occur until 2020. Restoration of the side channel will be undertaken first, with construction of the bridges at the same time. Reconnection with the Skagit River will occur during the fish window specified by resource agencies. Trail routes and interpretive elements in the park will be installed concurrent with side channel work. Installation of other features will occur as funding becomes available.

10. The project will improve access to the site and is expected to attract more visitors. The effect will be to enhance public access to the shoreline. All three of the new bridges will provide viewing opportunities to see salmon and steelhead in their natural habitat. The County has recently purchased contiguous Parcel P45194, an inactive commercial property formerly used as a restaurant. Adequate parking for the upgraded park is available in the existing gravel lot on P45194. An ADA accessible trail will connect the existing trail system to this parking lot. Dedicated parking for park visitors should reduce conflicts and congestion at adjacent local businesses.

11. The work area is separated from most of the nearby businesses and residences by a 200-foot-wide forested buffer. Existing vegetation between private property and the new side channel will be left intact to the extent feasible. Native trees and shrubs will be planted along the channel following construction. The only portion of the project visible from SR 20 will be the parking lot.

12. Based on professional evaluation, the final design results in a minimal increase in 100-year flood depths (0.6 inches), and does not expand the footprint of the 100-year flood which affects only undeveloped forested floodplain.

13. In the run-up to application for this project, two public meetings were held at the Marblemount Community Hall. In general, the attendees expressed support for the park and the project. Notice of Development Application was published, mailed and posted in May 2018, as required by law. No public comments were received.

14. Environmental review of the proposal was conducted and a Determination of Non-Significance (DNS) was issued on June 19, 2018. There were no appeals.

15. At the Hearing Examiner's hearing, two members of the public spoke. One favored the project for increasing fish habitat and for adding to public facilities that are in short supply locally. The other expressed concerns over the possibility of erosion across the river from the project. A project engineer testified that the diversion involved will reduce velocities in the main river channel and thus should not present a threat of increased erosion.

16. Consultation with State, Federal and tribal entities, and acquisition of numerous additional permits will be required for this project. The various approvals will satisfy the intent of the Critical Areas Ordinance. Comments from County departments on the proposal are reflected in conditions of approval.

17. The portions of this proposal that require modification of existing Special Use Permits (PL96-0035, PL02-0713) are the construction of a primitive campground and trailhead.

18. The County Staff analyzed the project under the local Shoreline Master Program and under the criteria for Special Use approval. They determined that, as conditioned, the proposal will be consistent with applicable shorelines policies and regulations and with applicable special use criteria. The Hearing Examiner concurs with these findings and adopts the same. The Staff Report is, by this reference, incorporated herein as though fully set forth.

19. The proposal is likewise consistent with policies of the Shoreline Management Act relating to Shorelines of Statewide Significance. Those policies call for recognizing the need to protect natural resources and ecological systems and to increase public access to publicly owned shorelines. The project will protect statewide interests and result in long-term public benefit.

20. 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 9.07. SCC 14.16.900(1) (b) (ii), SCC 14.06.120(7).

2. The requirements of the State Environmental Policy Act (SEPA) have been met.

3. As conditioned, the requested Shoreline Substantial Development Permit meets the relevant approval criteria. SMP 9.02.

4. As conditioned, the requested Special Use Permit modification meets the relevant approval criteria. SCC 14.16.900(1)(b)(v).

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 adhered to.

3. A Protected Critical Area (PCA) site plan shall be recorded with the County Auditor's Office prior to approval of the grading permit.

4. Temporary erosion/sedimentation control measures shall be used in accordance with Chapter 14.32 SCC (Stormwater Management). Proposed improvements must meet Low Impact Development techniques where feasible. All new or replaced hard surfaces shall meet current stormwater regulations.

5. The applicant shall comply with all provisions of Chapter 14.16 SCC (zoning) Chapter 14.34 SCC (floodplain development), and any other applicable County regulations

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

7. A no-rise certification is required for fill or new construction in the floodway.

8. The applicant shall confirm the location of all wells within 100 feet of the contiguous ownership.

9. Prior to ground disturbance, an Archaeological Monitoring and Management Plan shall be implemented.

10. The applicant shall submit a copy of this decision with the building and grading permit applications.

11. The project shall be commenced within two years of final approval of the Shoreline Substantial Development Permit and completed within five years thereof.

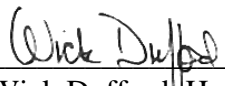
12. If the applicant proposes any modification to this project, it shall notify Planning and Development Services prior to the start of construction.

13. Failure to comply with any condition of approval may result in permit revocation.

DECISION

The application for a Shoreline Substantial Development Permit (PL18-0095) and for a Special Use Permit Modification (PL 18-0186) is approved, subject to the conditions set forth above.

SO ORDERED, this 5th, day of April 2019.



Wick Dufford, Hearing Examiner

Transmitted to applicant and staff, April 5, 2019