

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

FINDINGS, CONCLUSIONS AND DECISION

Applicant: Tesoro Refining & Marketing Company
10200 West March Point Road
Anacortes, WA 98221

File No: PL07-0806

Request: Shoreline Substantial Development Permit

Location: 10200 West March Point Road, with a portion of
Sec. 29, T35N, R2E, W.M.

Parcel No: P32996

Shoreline Designation: Urban

Summary of Proposal: To construct a new deck approximately 2,426 square feet in size to provide an outdoor social area at the Tesoro employees' recreation building. The deck will be approximately 123 feet landward of the Ordinary High Water Mark (OHWM). It will be accessible by the handicapped.

Public Hearing: After reviewing the report of Planning and Development Services, the Hearing Examiner conducted a public hearing on June 18, 2008.

Decision: The application is approved, subject to conditions.

FINDINGS OF FACT

1. Tesoro Refining and Marketing Company (applicant) seeks a Shoreline Substantial Development Permit to build a deck along the exterior of the employees' recreation building.
2. The location is 10200 West March Point Road on Fidalgo Island, within a portion of Sec. 29, T35N, R2E, W. M. The shoreline designation is Urban. The parcel number is P32996.
3. The existing building on site is the Tesoro Employees Recreation Association (TERA) building. It is located at the extreme northern point of the March Point peninsula.
4. The site is flat except for the coastal bank north of the road that faces Padilla Bay. The property is a 4.2 acre rectangular piece of land, dividing by March Point Road. A portion of the property is second class tidelands.
5. The purpose of the deck is for recreation. It will be cover approximately 2,426 square feet on the north and west sides of the building and approach within 123 feet of the Ordinary High Water Mark (OHWM). The deck will improve access by wheelchair to the facility.
6. The area where the deck will go slopes away to the existing parking lot. The land that will be covered is now is shrubbery, grass, and asphalt.
7. A Fish and Wildlife Site Assessment, dated September 14, 2007, was prepared by Anchor Environmental LLC. The report identified a bald eagle nest site 300 feet to the south near a basketball court. The report recommended that no construction occur from January through May because of the proximity of the nest. The State Department of Fish and Wildlife may require a Bald Eagle Management Plan.
8. Otherwise, the Fish and Wildlife Site Assessment identified no adverse habitat impact to the shoreline area.
9. The site is within a City of Anacortes Urban Growth Area. The City was contacted but had no comment on the application.
10. No County agencies commented except the Building Division which advised that a deck greater than 30 inches above grade would require a building permit.
11. Notice of the application was given as provided by law. There was no public comment.

12. The local Shoreline Master Program (SMP) contains a preference for accessory development to port and industrial facilities that provides increased access to and enjoyment of the shore by members of the public.

13. Drainage impacts will be negligible. No significant adverse shoreline effects are likely. A Determination of Non-Significance (DNS) was issued under the State Environmental Policy Act (SEPA) on March 6, 2008. The DNS was not appealed. It elicited no comments.

14. The proposed deck meets the dimensional requirements of the SMP. The Staff recommends approval.

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 the persons and the subject matter of this proceeding. SMP 9.06

2. The proposal is a “substantial development” within the 200 feet of the OHWM and requires a Shoreline Substantial Development Permit. RCW 90.58.030, 90.58.140.

3. The SMP sets forth criteria for approval of Substantial Development Permits. (SMP 9.02.) The criteria require that the development be:

1. Consistent with the local Master Program.
2. Consistent with the Shoreline Act’s policies, set forth in RCW 90.58.020.
3. Consistent with rules adopted by the Department of Ecology.

4. The subject proposal meets these criteria. It is consistent with the SMP and with the policies of the Shoreline Management Act. In particular it serves the objective of improving public access to the shorelines. No conflict with Department of Ecology rules has been identified.

5. The proposed deck should be approved with conditions.

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

CONDITIONS

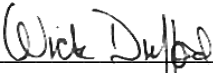
1. The deck shall be constructed as described in the application materials, except as the same may be altered by these conditions.

2. Any other required permits shall be obtained. If the deck will be over 30 inches above grade, a County Building Permit shall be obtained.
3. The proposal shall comply with all applicable state and local regulations, including the provisions of local Shoreline Master Program.
4. The applicant shall contact the State Department of Fish and Wildlife to determine whether a Bald Eagle Management Plan is needed. If such a plan is needed, the applicant shall provide it.
5. Construction shall not occur between January 1 and May 31 or when eagle chicks remain within the nest.
6. The project shall be commenced within two years of final approval and shall be completed within five years thereof or the permits shall be come void.
7. Failure to comply with any permit condition may result in permit revocation.

DECISION

The requested Shoreline Substantial Development Permit is approved, subject to the conditions set forth above.

DONE this 30th day of June, 2008.



Wick Dufford, Hearing Examiner

Date Transmitted to Applicant: June 30, 2008.

RECONSIDERATION/APPEAL

As provided in the Skagit County Shoreline Master Program, Section 13.01, a request for reconsideration may be filed with Planning and Development Services within five (5) days after the date of this decision. The decision may be appealed to the Board of County Commissioners by filing a written Notice of Appeal with Planning and Development Services within five (5) days after the date of decision or decision on reconsideration, if applicable.