

NOTICE OF DECISION

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

- Applicant:** Washington State Department of Ecology (DOE)
10441 Bayview-Edison Road
Mount Vernon, W 98273.
- Requests/File Nos:** Shoreline Substantial Development Permit, PL10-0510
Special Use Permit, PL10-0511
- Location:** 11100 Bayview-Edison Road, next to Rozema Boatworks,
within a portion of Sec. 31, T35N, R3E, W.M.
- Summary of Proposal:** To upgrade the existing public boat launching facilities at Bayview by replacing the existing 12- foot wide ramp with a new 20-foot wide concrete ramp; extending steel plating on the mudflats; repairing shoreline rip-rap; installing a park bench and interpretive signs; resurfacing the parking area with pervious materials; and improving the County's storm water outfall.
- Land Use Designations:** Shoreline: Rural Residential (Aquatic below OHWM)
Zoning: Rural Village Residential (RVR)
- SEPA Compliance:** Determination of Non-Significance (DNS) by DOE as lead agency, issued September 28, 2010. No comments. No appeals.
- Public Hearing:** April 20, 2011. No public testimony. Planning and Development Services (PDS) recommended approval.
- Decision:** Approval, with conditions.
- Reconsideration/Appeal:** **Shorelines:** A Request for Reconsideration may be filed with PDS within five days of this decision. The decision may be appealed to the Board of County Commissioners by filing an Appeal with PDS within five days of the date of the decision or decision on reconsideration, if applicable.
- Special Use:** A Request for Reconsideration may be filed with PDS within 10 days of this decision. The decision may be appealed to the Board of County Commissioners by filing an Appeal with PDS within 14 days of the date of the decision or decision on reconsideration, if applicable.
- Online Text:** The entire decision can be viewed at
[www.skagitcounty.net/hearing examiner](http://www.skagitcounty.net/hearing_examiner)

FINDINGS OF FACT

1. The Washington State Department of Ecology (DOE) seeks permission to upgrade the boat launch at Bayview.

2. The ramp is located at 11100 Bayview-Edison Road. Rozema's Boatworks are next door to the south. The property is owned by the State and consists of Parcels P35092 and P35093. It is within a portion of Sec. 31, T35N, R3E, W.M.

3. The shoreline designation is Rural Residential. Waterward of the Ordinary High Water Mark (OHWM) the designation is Aquatic. The area is a Shoreline of Statewide Significance. The Comprehensive Plan/zoning designation is Rural Village Residential (RVR).

4. The property is located on Padilla Bay and is administered by the Padilla Bay National Estuarine Research Reserve which is overseen by the DOE.

5. The project seeks to reconstruct the present boat ramp and effect shoreline stabilization on 0.17 acres of land. The new ramp will be 20 feet wide and 90 feet long -- 35 feet of which will be below mean higher-high water. Perforated steel plates will extend the length of the ramp, approximately 100 feet. Steel pilings may be placed on the north side of the new ramp to assist in boat handling during launches

6. Upland site improvements will include repaving 1,200 square feet of parking area with pervious pavers. Shoreline stabilization will include rebuilding and augmenting the existing rock rip-rap. The proposed armoring will extend along the shore approximately 30 feet to the north and 30 feet to the south. Native plant landscaping will be installed between the rip-rap and the parking area. A park bench and interpretive signs are planned.

7. There is a County easement on the south side of the property for a stormwater culvert and outfall. The plans call for extending the existing 48-inch concrete storm drain pipe 32 linear feet to the west. Skagit County Public Works will participate in the project to improve the stormwater facilities. The extension of the culvert is intended to lessen erosion along the southern portion of the ramp. An aluminum grate will be placed at the end of the culvert to collect debris and slow the outflow. The result should be less turbidity and erosion at the outfall. The ditch for the pipe will be backfilled and the surface will be landscaped with native vegetation.

8. About 70% of the site will be taken up by ramp and parking area. About 20% of the asphalt parking will be replaced with pervious material. This will reduce site coverage to about 50%, which is below the maximum allowable under the local Shoreline Master Program (SMP).

9. A Fish and Wildlife Habitat Site Assessment, dated August 20, 2010, was prepared by Graham-Bunting Associates. The assessment's recommendations for mitigation of impacts are reflected below in conditions of approval.

10. A Determination of Non-Significance (DNS) was issued by DOE on September 9, 2010. There were no comments and no appeals.

11. The existing boat ramp and parking have been in existence for over 30 years, predating modern shoreline regulations. It is the only public ramp on the east side of Padilla Bay. It is much used by local crabbers, day sailors and other recreationists, as well as by research boats. The present 12-foot wide ramp is simply too narrow for ease of use. The proposed improvements will enhance public access to the shorelines.

12. The adjacent neighbor to the south and west (Rozema Boatworks) has for many years operated an industrial marine business on the shore. There is an adjacent cabin to the north with its own beach access. Bayview State Park is about a quarter mile to the north. The proposed project will not interfere with existing uses of the shoreline. It will improve the usefulness of the site as a boat launch by increasing maneuverability and upgrading safety conditions. It will also provide habitat advantages through beach restoration and greater erosion and turbidity control.

13. The applicant met with local residents and sought to include their concerns in the project design. The proposals for pervious paving, native plantings, a park bench and interpretive signs reflect this effort and should benefit the community. DOE will see to ongoing maintenance. There is no record of complaints about operation of the existing facility. The record here contains no adverse public comments.

14. The Staff Report analyzes the proposal in light of criteria for Shorelines of Statewide Significance and of the policies and regulations of the SMP. The Staff concludes that the project, as conditioned, will be consistent with the applicable shoreline approval 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.

15. Similarly the Staff Report analyzes the proposal for Special Use approval under the criteria of SCC 14.16.900. The Staff finds that the proposed project will meet these criteria. Anticipated activities will be compatible with normal uses in the vicinity and will not create undue intrusions on public convenience nor cause environmental harm. The character and lifestyle of the neighborhood will be maintained.

16. Other required State and Federal permits are being sought.

17. 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 subject matter of this proceeding. Both a Shoreline Substantial Development Permit and a Special Use Permit are required. The latter is needed because the facility is deemed a minor public use (See SCC 14.16.310(3((i))). The application process for these two approvals has been consolidated for a single hearing under SCC 14.06.060.

2. The requirements of the State Environmental Policy Act (SEPA) have been met.
3. The applicable criteria for approval of a Special Use Permit has been met. SCC 14.16.900(1)(b)(v).
4. As conditioned, the proposal is consistent with the policies of the Shoreline Management Act, the regulations of the DOE, and the policies and regulations of the local SMP. Thus, it meets the criteria for approval of a Shoreline Substantial Development Permit. SMP 9.02.
5. Any finding herein which may be deemed a conclusion is hereby adopted as such.

CONDITIONS

1. The project shall be constructed and operated in accordance with the application materials, except as the same may be altered by these conditions.
2. The applicant shall obtain all other needed permits and abide by the conditions of same.
3. The applicant shall comply with all applicable policies and regulations of the Skagit County Code and the Washington Administrative Code.
4. Establishment of a protected critical area (PCA) with a site plan shall be approved and recorded for the site prior to issuance of the building permit.
5. Temporary erosion and sedimentation controls shall be installed prior to initiation of site disturbing activities and maintained throughout the construction phase, consistent with SCC 14.32.060, as described on Sheet C1.1 of the project drawings prepared by Leonard, Boudinot and Skodje, Inc.
6. The applicant and its contractor shall remove debris, concrete and rock rubble from the area between the OHWM and the mudflat in accordance with the project design. Beach enhancement of the upper intertidal zone with 1/8 inch and 1/4 inch minus pea gravel shall be coordinated with the Washington Department of Fish and Wildlife.
7. A planting program shall provide for an element of low lying native shrubs and herbaceous species to be included in the area currently maintained as lawn. The program shall be implemented consistent with the Planting, Monitoring and Maintenance Schedule set forth as Attachment D to the Fish and Wildlife Habitat Site Assessment, prepared by Graham-Bunting Associates, dated August 20, 2010.
8. Proposed signs shall comply with the requirements of the SMP. A notice board should be considered for installation. The board could provide guidance for launch and haul out based on tidal elevations necessary for the effective use of the ramp. Other pertinent resource

information, such as special bulletins associated with hunting and fishing regulations, and interpretive material, could be included.

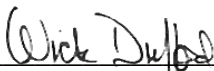
9. Construction pursuant to this permit shall commence within two (2) years of the date of the issuance of the final permit for the project or within two (2) years of the resolution of any appeals on any permits for the project.

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

DECISION

The subject applications for a Shoreline Substantial Development Permit and for a Special Use Permit are approved, subject to the conditions set forth above.

DONE this 3rd day of May, 2010.



Wick Dufford, Hearing Examiner

Transmitted to Applicant on May 3, 2011.

See Page 1, Notice of Decision, for Reconsideration and Appeal information.