

NOTICE OF DECISION

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

Applicant: Skagit County Parks and Recreation
c/o Brian Adams, Director
P. O. Box 1326
Mount Vernon, WA 98273

Request/File No: Shoreline Substantial Development Permit, PL13-0365

Location: West side of Clear Lake at 12925 South Front Street, Clear Lake, within SE1/4 Sec. 1, T34N, R4E, W.M.

Shoreline Designation: Rural Residential

Summary of Proposal: Changes and improvements to Clear Lake Park, including installation of a large covered picnic shelter and open plaza at the site of the old bathhouse, building of a new self-contained restroom, relocating one small picnic shelter and constructing two others, improving parking and access at the entry, building a new walking loop trail, and removing the impervious surface of the basketball court.

SEPA Compliance: Mitigated Determination of Non-Significance (MDNS), dated October 15, 2013. No appeal.

Public Hearing: February 5, 2014. Testimony by Parks Director. One member of public raised concerns about the septic system. Planning and Development Services (PDS) recommended approval.

Decision/Date: The application is approved, subject to conditions. February 19, 2014.

Reconsideration/Appeal: A Request for Reconsideration may be filed with PDS within 5 days of this decision. The decision may be appealed to the Board of County Commissioners by filing an appeal with PDS within 5 days of the date of 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. Skagit County Parks and Recreation seeks a Shoreline Substantial Development Permit to make changes and improvements to Clear Lake Park.
2. The Park is located on the west shore of Clear Lake at 12925 South Front Street, within SE1/4 Sec.1, T34N, R4E, W.M. The property encompasses four Tax Parcels: P23367, P23365, P23383, and P74819. These parcels have been certified as one lot of record in Auditor's file #201309130018.
3. The site encompasses approximately one acre. The property is within a shoreline area designated as Rural Residential under the local Shoreline Master Program (SMP). The area surrounding the park is predominantly in single and multi-family residential development. Further north are industrial and commercial uses.
4. The park is a long-time public facility of the County. It is served by public water and an onsite sewage disposal system. For many years the park contained a life-guarded public beach with a bathhouse and concession building. There was a swimming area off the beach and a fishing pier nearby. Over the past few years the swim-based infrastructure has mostly been removed.
5. Parking has been and will continue to be provided along the western boundary adjacent to the County right-of-way associated with South Front Street. The site slopes gently from the parking area east to the lake. Vegetation is predominantly grass with a scattering of trees. There is some wetland vegetation along the shore and waterward of the Ordinary High Water Mark (OHWM).
6. The present proposal is to further a process of converting facilities to respond to the present-day reduction in size and scope of County park services. The Parks Department conducted a public process to engage the community in developing a new site plan. The instant proposal is the result.
7. Many elements of the park will not change. The beach area, internal sidewalks, and children's play area will remain as before. Outdoor picnic tables will remain in the southerly portion of the site.
8. A large new picnic shelter with barbecue facilities, covering a portion of the old bathhouse footprint, will be added to provide shade and weather protection. An adjacent plaza area will be created on the balance of the bathhouse footprint with a bike rack, recycling stations and drinking fountains. Next to the plaza, a new restroom of about 600 square feet will be installed. All of this development will be outside of the 100 foot shoreline/critical area buffer.
9. The plan includes a central entrance connected to a network of paved paths. A kiosk will be placed at the entrance for the posting of community notices. A new perimeter trail around the northerly portion of the site will provide a boundary around an internal grass area. A basketball court (impervious surface) in this area will be removed. Along the trail three mini-shelters (196 square feet each) with barbecues will be located. Each of these will be landward of the relevant 25-foot shoreline setback. All park elements will be ADA accessible.
10. The parking spaces on the west will be re-organized and re-aligned and a safe sidewalk will be added to keep pedestrians from using Front Street as a sidewalk.

11. The applicant is proposing the park improvements in three phases:

Phase 1 -- Years 1-2 - Install restroom and resurface plaza

Phase 2 -- Years 2-4 - Parking, site access upgrades, kiosk, bike racks, recycling station and benches.

Phase 3 -- Years 4-5 - Perimeter trail, lighting, picnic shelters

The Examiner finds that good cause has been shown for allowing the above timeline.

12. At the hearing, a member of the public expressed concerns about the ability of the existing septic system to handle anticipated demands. The existing septic system has been assessed by County health authorities and deemed adequate to serve the new restroom facilities. The demands on the system should be reduced because the showers and the concession stand have been eliminated. The drain field is located more than 100 feet from the OHWM.

13. A comment letter was received from the North Sound Baykeeper program. In general the letter endorsed the project. However the need for the mini-shelters within the critical area buffer was questioned. The Staff responded that the public process demonstrated a strong demand for these improved facilities and noted that covered (but not enclosed) structures under 200 feet square are an allowed use within a critical area buffer.

14. The only other public comment was a letter in support of the project.

15. Environmental review under the State Environmental Policy Act (SEPA) was performed. An environmental checklist was executed and evaluated. A Mitigated Determination of Non-Significance (MDNS) was issued on October 15, 2013. The MDNS was not appealed. The MDNS contained the following standard conditions:

1. Temporary erosion/sedimentation control measures as approved by the Skagit County Department of Public Works shall be in place prior to the placement of any fill material. The applicant shall maintain all temporary erosion/sedimentation control measures in accordance with the Skagit County Drainage Ordinance. Said measures shall remain in place until completion of the project.

2. The applicant shall comply with Northwest Clean Air Agency requirements.

3. The applicant shall comply with the provisions of Chapter 14.32 of the Skagit County Code, the Skagit County Drainage Ordinance, as it related to increased runoff resulting from increase impervious surfaces.

4. The applicant shall comply with Fire Code Standards.

5. An engineered soils compaction report shall be required for all structures placed on fill material.

6. The applicant shall comply with all relevant provisions of 14.24 (Skagit County Critical Areas Ordinance) and 14.26 (Shoreline Management Master Program) of the Skagit County Code.

16. A Fish and Wildlife Assessment evaluating Critical Areas Ordinance compliance was prepared and submitted by Graham Bunting Associates on August 27, 2013. In addition, review of all

environmental documents by The County's critical areas staff was performed. The results of these reviews show that the minor intrusions into critical areas/buffers that are proposed meet the requirements for approval. The reviewers noted that the applicant specifically designed the proposed improvements to meet the Critical Areas Ordinance and that such improvements will not result in a decrease in buffer functions and values.

17. Conformity with the local SMP was evaluated by staff who concluded that policies and regulations of the master program and the Shorelines Act will not be violated. A recreational facility, such as the subject park, clearly advances the core idea of promoting public access to the shorelines. The specific features of the park improvement plan are consistent with the preservation of shoreline resources and values. The Hearing Examiner concurs with the staff evaluation.

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

CONCLUSION OF LAW

1. The proposal is a substantial development and requires a Substantial Development Permit. RCW 90.58.140.

2. The Hearing Examiner has jurisdiction over the subject matter. SMP 9.06.

3. The requirements of SEPA have been met.

4. Recreation development is permitted in the Rural Residential environment, subject to the general regulations. SMP 7.12(2)(A)(2).

5. The proposal, as conditioned, meets the general regulations of the SMP. The proposal likewise meets the policies of the Shoreline Management Act (RCW 90.58.020) and shorelines regulations adopted by the Department of Ecology.

6. Accordingly, the proposal, as conditioned, meets the criteria for granting a Shoreline Substantial Development Permit. SMP 9.02.

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

3. The applicant shall comply with all conditions of the MDNS, issued October 13, 2013.

4. The applicant shall comply with all relevant state and local regulations, including but not limited to Chapters 173-201A WAC and 173-201A WAC (surface and ground water quality).

5. Any use of fertilizers, pesticides or herbicides shall be a minimum of 25 feet from the shoreline and shall be in compliance with local, state and federal regulations.

6. A current letter of water availability from the PUD is required to be submitted with the building permit application.

7. The applicant shall record a Protected Critical Area site plan prior to building permit application.

8. If the applicant proposes any modification of the subject project, it shall request a permit revision from PDS.

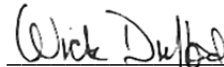
9. Construction for Phase 1 shall commence within two years of the issuance of this permit. Construction for all three phases shall be completed within ten years thereof.

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

DECISION

The requested Shoreline Substantial Development Permit (PL 13-0365) is approved, subject to the conditions set forth above.

DONE, this 19th day of February, 2014.



Wick Dufford, Hearing Examiner

Transmitted to Applicant: February 19, 2014

See Notice of Decision, Page 1, for appeal information