

BEFORE THE SKAGIT COUNTY HEARING EXAMINER
FINDINGS, CONCLUSIONS AND DECISION

Applicant: Bouslog Properties
c/o John Bouslog
11190 Bayview Edison Road
Mount Vernon, WA 98273

Agent: Ravnik & Associates
c/o John Ravnik
P. O. Box 361
Burlington, WA 98233

File No: PL09-0046

Request: Special Use Permit

Location: Easterly of the Port of Skagit County along the east and north side of Bay Ridge Drive, south of Peterson Road, at 12185 Bay Ridge Drive. The property is within a portion of E1/2NE1/4 Sec. 3, T34N, R3E, W.M.

Parcel Nos: P122075, P122078

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

Summary of Proposal: To construct two buildings for light industrial use that will exceed 40 feet in height, but will not be more than 60 feet in height. Building Site Plan (PL03-0706) Note #21(B) states that structures that exceed 40 feet in height shall be considered a Hearing Examiner Special Use.

Public Hearing: After reviewing the report of Planning and Development Services, the Hearing Examiner conducted a public hearing on March 11, 2009.

Decision: The application is approved, subject to conditions.

FINDINGS OF FACT

1. Bouslog Properties seeks permission to build two buildings for light industrial use that will exceed 40 feet in height, but will not be higher than 60 feet.

2. The property is subject to the provisions of Binding Site Plan #PL03-0706. Note #21(B) of the binding site plan states that, with certain listed exceptions, structures that exceed 40 feet in height shall be considered a Hearing Examiner Special Use. The proposed buildings don't fit within any of the listed exceptions.

3. The subject property is approximately 12.04 in size, located along the east and northerly side of Bay Ridge Drive, approximately 725 feet south of Peterson Road. The property is with a portion of E1/2,NE1/4 Sec. 3, T34N, R3E, W.M. The parcel numbers are P122075 and P122078.

4. The property is zoned Bayview Ridge Light Industrial (BR-LI). The project area is within the Bay Ridge Business Park Phase 2, located just east of the Port of Skagit County.

5. Surrounding properties are zoned BR-LI to the north, south, and west. To the east, the northerly 2/3 of the property abuts Bayview Ridge Community Center (BR-CC) zoning, with the remaining southerly 1/3 of the property abutting more BR-LI zoning.

6. Currently the entire 12.04 acres is maintained in a pasture-like condition. The land slopes downhill to the south at approximately 1% to 3%. No jurisdictional wetlands exist on site.

7. Proposed site improvements will be built in two phases. The first phase includes asphalt and utilities installation, construction of an 117,000 square-foot building, and land preparation of a gravel pad for a second building. The second phase will involve construction of the 31,250 square-foot second building.

8. The proposed development is to construct a light industrial facility which can support activities allowed within the BR-LI zone, such as repackaging, testing, labeling, distribution, and office support. The proposed plant may employ from 50 to 100 full time workers. Jobs could include line operators, molding machine operators, pressmen, inventory control, product movement, forklift operators, general help, janitorial, office staff, and associated management. The facility could run three shifts and operate 24-hours a day.

9. Access locations will be off of Bay Ridge Drive along the west and south sides of the site. In addition to employee traffic, eight to ten truck loads receiving and the same number shipping would be expected each day. There will be no consumer traffic because the facility will not be open to the public.

10. No negative environmental impacts are anticipated. No emissions to the air or discharges to water are proposed. The same bulk product being shipped into the plant will also be shipped out. Industrial size compactors will be used indoors, eliminating the need for outside dumpsters or storage. The site will be fenced. Motorized security gates will be used at all vehicular and pedestrian entry points. Landscaping will be provided around the exterior of the whole site.

11. A Notice of Development Application was posted, published and mailed on January 29, 2009. No public comments were received.

12. Environmental review under the State Environmental Policy Act (SEPA) for the original Binding Site Plan (#PL01-0678) took into consideration proposed building sizes and grading quantities for the future industrial park. No appeals were received concerning the original Mitigated Determination of Non-Significance (MDNS). A second SEPA review was conducted for this proposal based on an increase in the grading quantities proposed. A second MDNS was issued on February 12, 2009. Again no appeals were received. The conditions imposed were standard requirements for compliance with County regulations on drainage, fire codes, soils compaction, critical areas, zoning, and clean air.

13. County departments had no comments on the height of the structure. The PDS Health Unit listed requirements for water supply, sewer and solid and hazardous waste management. At the hearing there was no public testimony.

14. The criteria for Special Use Permit approval are set forth at SCC 14.16.900(1)(b)(v), as follows:

- (a) The proposed use will be compatible with existing and planned land use and comply with the Comprehensive Plan.
- (b) The proposed use complies with the Skagit County Code.
- (c) The proposed use will not create undue noise, odor, heat, vibration, air and water pollution impacts on surrounding, existing, or potential dwelling units, based on the performance standards of SCC 14.16.840.
- (d) The proposed use will not generate intrusions on privacy of surrounding uses.
- (e) Potential effects regarding the general public health, safety, and general welfare.
- (f) For special uses in ... Natural Resource Lands ..., the impacts on long-term natural resource management and production will be minimized.

(g) The proposed use is not in conflict with the health and safety of the community.

(h) The proposed use will be supported by adequate public facilities and services and will not adversely affect public services to the surrounding areas, or conditions can be established to mitigate adverse impacts on such facilities.

15. The Staff Report analyzes the request for building heights over 40 feet, but less than 60 feet, in light of the above criteria and finds that the request is 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.

16. The concern over building heights in the BR-LI zone stems from a desire to avoid interfering with airplanes taking off and landing at the nearby Port of Skagit airport. The current version of SCC 14.16.180(6)(b) requires building heights to be consistent with the County building code and “applicable Federal Aviation Administration regulations concerning height restrictions pursuant to the Airport Environs Overlay, SCC 14.16.210.”

17. The building height proposed here will require approval from the Federal Aviation Administration based on their permit contours map. The applicant’s agent provided assurance that this proposal will not violate the FAA’s contours.

18. The Special Use Permit requirement is noted on the face of the binding site plan, but it, in fact, reflects an earlier height limitation provision that has been replaced by the “contours map” approach. Given the existing regulatory scheme which insures that buildings will not interfere with flight operations, the Examiner finds no reason to deny the request for structures over 40 feet but less than 60 feet.

19. 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. SCC 14.06.050(1)(b).

2. The requirements of SEPA have been met.

3. As conditioned, the proposal meets the requirements for the issuance of a Special Use Permit. SCC 14.16.900(1)(b)(v).

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

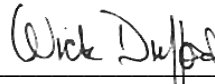
CONDITIONS

1. The applicant shall obtain all necessary approvals, including building permits.
2. The applicant shall comply with the conditions of the relevant MDNS's issued on September 20, 2001 and February 12, 2009.
3. The applicant shall comply with all relevant County, State and Federal regulations and statutes.
4. The applicant shall comply with the requirements of County Health authorities in the construction and operation phases of the proposal.
5. The project shall be commenced within two years of permit approval.
6. Failure to comply with any condition may result in permit revocation.

DECISION

The requested Special Use Permit (PL09-0046) is approved, subject to the above conditions.

DONE this 20th day of March, 2009.



Wick Dufford, Hearing Examiner

Transmitted to applicant: March 20, 2009

RECONSIDERATION/APPEAL

As provided in SCC 14.06.180, a request for reconsideration may be filed with Planning and Development Services within 10 days after the date of this decision. As provided in SCC 14.06.120(9), the decision may be appealed to the Board of County Commissioners by filing a written Notice of Appeal with Planning and Development Services within 14 days after the date of the decision, or decision on reconsideration, if applicable.