

**NOTICE OF DECISION**

**BEFORE THE SKAGIT COUNTY HEARING EXAMINER**

**Applicant:** Port of Skagit County  
Attn: Sara Young  
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Burlington, WA 998233

**Agent:** Jennifer Aylor Eldred, AICP  
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**Request/File No:** Setback Variance, PL11-0367

**Location:** West and northeast perimeter of the Skagit Regional Airport, south of Higgins Airport Way, west of the terminal building within a portion of SE1/4 Sec. 33, T35N, R3E, and SW1/4SW1/4 Sec. 34, T35N, R3E, W.M. (Parcel Nos: P35302, P35303, P115644, P115643, P115642, P115640)

**Land Use Designation:** Bayview Ridge Light Industrial/Aviation Related

**Summary of Proposal:** To build a nine (9) foot tall wildlife deterrent security fence on the property line to replace an existing fence along the west and northeast perimeters of the airport.

**SEPA Compliance:** Exempt

**Public Hearing:** February 22, 2012. No public testimony. Planning and Development Services (PDS) recommended approval.

**Decision:** Approval, subject to conditions.

**Reconsideration/Appeal:** 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 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 Port of Skagit County (applicant) has applied to build a nine-foot high fence on a portion of the property line on the perimeter of the Skagit Regional Airport Facility.

2. Under the definition of "setback" at SCC 14.04.020, setbacks do not apply to fences six feet or less in height. This means that setbacks do apply to fences over six feet high. Staff interprets the applicable setback here to be 35 feet. Accordingly, the proposed fence requires a Variance if it is to be built on the property line.

3. The site of the proposed fence is along the west and northeast perimeters of the airport. This property is located within the Bayview Ridge Urban Growth Area. The property belongs to the Port, and is situated west of Burlington, east of the Farm to Market Road, north of Highway 20 and south of Josh Wilson Road. The acreage of the parcels involved is approximately 542 acres.

4. The subject includes Parcels P35302, P35303, P115644, P115643, P115642, and P115640. The majority of it is zoned Aviation Related (AVR). A small portion is zoned Bayview Ridge Light Industrial (BR-LI). The area involved in this application is not adjacent to designated resource lands.

5. The Port is undertaking improvements to runways 10-28 and 4-22 to meet requirements established by the Federal Aviation Administration. As part of the project, the Port seeks to construct a wildlife fence to exclude deer, coyotes, and other large mammals from the airport operations area. This area is currently partially enclosed by fencing.

6. The proposal is to install about 6,600 linear feet of nine-foot high chain link fence to create a complete enclosure. The new fence will have a buried "apron." Vegetation removal will be limited to only what is necessary to construct the fence. The area is expected to re-vegetate naturally with shrubs and forbs within two years after the fence is installed.

7. The wildlife fence will start at Higgins Airport Way just west of the hangars and proceed south for approximately 708 feet. Then it will turn westerly and run parallel to the taxiway adjacent to Runway 10-28 for a distance of 2,840 feet where it will connect into a service road. The fence will continue another 810 feet west, then proceed southerly for 820 feet and then continue easterly for 1,320 feet where it will intersect existing fencing that runs north and south. The new fence will extend approximately 675 feet west of the existing fence.

8. The area located north of the taxiway and Runway 10-28 is vacant, in the main heavily timbered. The area immediately adjacent to the taxiway is in grass as is the area to the west and south of the runway. The fence will cross parcels that are adjacent to the runway/taxiway parcel.

9. This proposal was routed to various County departments for review. They had no objections, although note was made that any fence over six feet high requires a building permit and an engineered design. No critical areas issues were identified.

10. A letter of completeness was issued on this application on December 1, 2011. Notice of Development was posted, published and mailed as required by law. The public hearing was given proper notice. No public comments were received. There was no public testimony at the hearing.

11. The Staff reviewed this request in light of the Code requirements for Variances and determined that the proposal, as conditioned, meets the intent of 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.

12. Preventing wildlife from gaining access to the airport property is an important public interest objective. The airport presents special health and safety challenges that are not applicable to other lands in the area. The need for this variance is not the result of actions of the applicant.

13. Moreover, the airport use is unique in that it must meet standards of the Federal Aviation Administration. The Port design engineers accounted for federal rules for both the object free zone (OFZ) and the object free area (OFA) when determining where to place the fence. It is being placed on properties adjoining these areas. If the fence met the setbacks on such properties many of them would no longer be usable.

14. This is the only airport within the identified zoning districts, one of which was created expressly to facilitate airport development. The use has requirements that are applicable to it alone. Under the circumstances, granting this Variance does not improperly confer a special privilege. If the Variance were denied, reasonable use of the property as zoned would be denied.

15. The reasons set forth in the application justify the granting of the Variance. The Variance sought is the minimum that will make possible the reasonable use of the land. The granting of the Variance will be in harmony with the general purpose and intent of the Unified Development Code and other provisions of the County Code and will not be injurious to the neighborhood or otherwise detrimental to public welfare.

16. 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. SCC 14.10.020(3).

2. The proposal is exempt from the procedural requirements of the State Environmental Policy Act (SEPA).

3. The criteria for Variances, as set forth at SCC 14.10.030(2), are met by this proposal as conditioned.

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

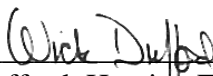
## CONDITIONS

1. The project shall conform to the application materials, except as the same may be modified by these conditions.
2. The applicant shall obtain a building permit and all other required permits and shall abide by the conditions of same.
3. The applicant shall comply with all applicable requirements of the Airport Environs Overlay (AEO), SCC 14.16.210.
4. A copy of this decision shall be submitted with the building permit at the time of application.
5. Prior to the issuance of a building permit, any outstanding planning review fees shall be paid.
6. Failure to comply with any condition may result in permit revocation.

## DECISION

The proposed Variance is approved, subject to the conditions set forth above.

**DONE**, this 6th day of March, 2012.

  
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Wick Dufford, Hearing Examiner

Transmitted to Applicant on March 6th, 2012.

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