

NOTICE OF DECISION

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

- Applicant:** Town of La Conner
c/o John Doyle
Town Administrator
P. O. Box 400
La Conner, WA 98233
- Requests/File Nos.:** (1) Shoreline Substantial Development, Variance and Conditional Use Permit, PL12-0026
(2) Critical Areas Variance Permit, PL12-0133
- Location:** 12154 Chilberg Road, within the SW1/4 Sec. 31, T34N, R3E, W.M. The property is designated as La Conner UGA Urban Development District (LC-UD).
- Shoreline Designation:** Rural
- Summary of Proposal:** To install a 115'x 134' concrete pad adjacent to and east of La Conner's existing sewage treatment facility for temporary storage of yard waste and compost material and for collection of any leachate generated during such storage. The leachate will be discharged to the treatment facility for processing.
- SEPA Compliance:** Mitigated Determination of Non-Significance (MDNS) issued by the Town of La Conner on November 30, 2011. No appeals
- Public Hearing:** September 19, 2012. No public testimony. Planning and Development Services (PDS) recommended approval.
- Decision:** The applications are approved, subject to conditions.
- Reconsideration/Appeal:** (1) Shoreline permit --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.
(2) Critical Areas permit -- Same as above, except that the Request must be made within 10 days of this decision, and any Appeal must made be within 14 days of this decision or the 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 Town of La Conner seeks to build a concrete pad immediately to the east of its existing sewage treatment facility.

2. The location is at 12154 Chilberg Road, within SW1/4 Sec. 31, T34N, R3E, W.M. The parcel number is P111978.

3. The property is designated as La Conner UGA Urban Development District (LC-UD) on the Comprehensive Plan and zoning maps. The property is industrial land owned by the Port of Skagit. The property is within the Rural environment under the local Shoreline Master Program (SMP).

5. The proposal is within shorelines of the Sullivan Slough, a tidal estuary to the east of the treatment plant. For placement of the pad as proposed, a number of approvals are required. The proposed installation is a substantial development and therefore requires a Shorelines Substantial Development Permit. The shore setback proposed for the subject pad is approximately 30 feet from the Ordinary High Water Mark (OHWM). The applicable shore setback under the SMP is 150 feet, so a dimensional variance is needed. The proposal is a feature of the sewage treatment plant and allowed under the SMP, but only as a conditional use in the shoreline area. Additionally the pad will be placed within the 100 foot critical areas setback from the OHWM of the slough. To allow reduction of this buffer by more than 50%, a Critical Areas Variance is required.

6. The original treatment plant project contemplated using the proposed site for a bioengineered wetlands filtration system to be used for stormwater. Budget limits prevented this filtration system from being built and stormwater has been routed to a settling pond south of the plant prior to discharge to the slough.

7. The area originally intended for the filtration system is a flat area of compacted fill created from dredge spoils from the Swinomish Channel. Lately it has been used for the storage of solid waste generated by the treatment facility. This solid waste has been mixed with yard waste (brought in by members of the community) to form compost. This compost mixture has then been sold as a safe fertilizer to local farms.

8. While awaiting sale, the compost has been stored in bins located on the ground. The concern addressed by this proposal is that leachate from the components of the compost or from the compost itself could potentially cause pollution of the ground water and of the slough.

9. The idea of the concrete pad is to provide a surface for compost mixing and compost storage that will allow for the ready collection of any leachate there may be and allow it to be routed to the treatment facility prior to discharge.

10. The pad will cover approximately 35,168 square feet and will not encroach on the slough. It will be located wholly on landfill that is no longer connected to the wetlands and does not serve any wetland functions. The existing access from Chilberg Road will be retained.

11. The applicant states that there is no other suitable area on the treatment facility site that can accommodate this activity. Parcels adjacent to the site are devoted to agricultural activities with shore setbacks similarly less than 150 feet from the OHWM.

12. The pad offers protection from water pollution, and the activities that will take place on it are not likely to cause other significant adverse environmental impacts. The composting will result in no increase in odors. Noise will be mitigated either through off-site grinding of waste or limitation of the hours of operation.

13. Review was conducted pursuant to the State Environmental Policy Act (SEPA). La Conner issued a Mitigated Determination of Non-Significance (MDNS) on November 30, 2011. The MDNS was not appealed. The conditions imposed were:

- (1) Landscape the northern boundary of the compost facility along Chilberg Road.
- (2) Provide drainage collection and conveyance to the waste water treatment facility.

14. The applicant submitted an Addendum to the Waste Water Treatment Plant Site Assessment Report, dated May 25, 2012. The addendum recommended mitigation for the proposed work within the shoreline setback and critical area buffer through removal of invasive plant species and installation of native plants in the areas north and south of the concrete pad, as well as south of the existing stormwater settling pond.

15. The applicant notes that the public interest will be served through creating a staging area for a positive use of solid waste, allowing it to be integrated into a useful product. The materials in the recycled product will not end up in a landfill.

16. The proposed pad and its use are uniquely associated with the operation of the sewage treatment plant. No cumulative impacts from allowing this structure and activity are likely.

17. The County Staff reviewed the application under the criteria for a Shoreline Substantial Development Permit, the criteria for a Shoreline Variance and the criteria for a Shoreline Conditional use. In addition the application was analyzed under the criteria for a Critical Areas Variance. The result of all these reviews was a Staff determination that the proposal is consistent with the relevant 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.

18. The proposed use does not negatively impact any existing environmental values. It is, in fact, protective of the environment.

19. Notice of the application and of the hearing was given as required by law. There was no public comment.

20. 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. SMP 9.06, SCC 14.24.140(1)(b).

2. The requirements of SEPA have been met.

3. The proposal, as conditioned, is consistent with the approval criteria for a Shoreline Substantial Development Permit (SMP 9.02), for a Shoreline Variance (SMP 10.03(1)), and for a Shoreline Conditional Use Permit (SMP 11.03).

4. The proposal, as conditioned, is consistent with the approval criteria for a Critical Areas Variance (SCC 14.24.140(3)).

5. 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 abide by the conditions of same. Flood plain permits are required. A building permit may be required.

3. The planting recommendations of the Addendum to the Site Assessment Report by GeoEngineers, dated May 25, 2012, shall be carried out.

4. The conditions of the MDNS, dated November 30, 2011, shall be met. (See Finding 13 herein.)

5. The shoreline setback area shall be placed into a Protected Critical Area (PCA) per the requirements of SCC 14.24.170. The PCA shall be recorded prior to any construction.

6. Any plumbing, wiring and other utility lines shall be installed underground or otherwise rendered inconspicuous.

7. An inspection of the leachate collection system by the Skagit County Health Department shall occur following its installation but prior to pouring the concrete pad.

8. Aesthetic impacts shall be minimized.

9. The applicant and its contractors shall comply with all applicable State and County regulations, including but not limited to: Northwest Clean Air Agency requirements; Drainage Code requirements for temporary erosion/sedimentation control measures (Chapter 14.32 SCC); water quality standards for surface and ground water (Chapters 173-201A and 173-200 WAC); maximum environmental noise levels (Chapter 173-60 WAC); Shoreline Master Program (Chapter 14.26 SCC); Critical Areas Ordinance (Chapter 14.24 SCC).

10. The project shall be commenced within two years from the date of the Shoreline Variance Permit final approval. The project shall be completed within five years thereof.

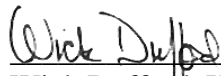
11. If the applicant proposes any modification of the project as hereby approved, a permit revision must be approved by PDS prior to construction.

12. Failure to comply with any permit conditions may result in permit revocation.

DECISION

The requested Shoreline Substantial Development, Variance and Conditional Use Permit (PL12-0026) is approved. The requested Critical Areas Variance (PL12-0133) is approved. These approvals are made subject to the conditions set forth above.

DONE this 25th day of September, 2012.



Wick Dufford, Hearing Examiner

Transmitted to Applicant on September 25, 2012.

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