

NOTICE OF DECISION

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

Applicant: Washington State Parks and Recreation Commission
c/o Tom Murley
220 N. Walnut Street
Burlington, WA 98233

Request/File No.: Shoreline Substantial Development and Conditional Use Permit
PL12-0137

Location: Bay View State Park, 10901 Bayview-Edison Road, on the
shore of Padilla Bay within Sec. 30, T35N, R3E, W.M.

Shoreline Designation: Rural Residential

Summary of Proposal: To provide shoreline stabilization in two phases: (1) To protect
the 100 foot buffer for the existing on-site drainfield by installing a
buried rock revetment at the edge of the buffer; and (2) To provide
soft shore stabilization and restoration below the Ordinary High
Water Mark (OHWM) by removing rock from the intertidal beach
and installing beach fill, vegetation and a new rock groin and sill.

SEPA Compliance: Checklist, March 29, 2012; DNS issued by Parks on April 9, 2012.
No appeals.

Public Hearing: September 19, 2012, No public testimony. Planning and
Development Services (PDS) recommended approval.

Decision: The application is approved, subject to conditions.

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. The Washington State Parks and Recreation Commission (Parks) seeks approval for shoreline stabilization work at Bay View State Park.

2. The park is located at 10901 Bayview-Edison Road on the shore of Padilla Bay, within Sec. 30, T35N, R3E, W.M. The parcel numbers are P34994 and P35000.

3. The park site is designated as Rural Residential under the local Shoreline Master Program (SMP).

4. The project involves two phases -- the first to be constructed as soon as weather permits; the second to be carried out later after additional permits are obtained. Each phase is expected to take around two months to complete.

5. Both phases are to take place in the western portion of the park which is on the seaward side of Bayview-Edison Road. This is the portion of the park used for waterfront recreation and day-use. The overnight facilities are located east of the road and will be unaffected by the project. Some parts of the day-use side of the park may need to be closed during construction activities, but the remainder of the park will remain open.

6. In the past sewage generated at the park has been handled through an onsite septic system and drainfield. The drainfield is located in the nearshore uplands of the bay. Presently a new on-site sewage treatment facility is being installed at the park which will involve treating effluent farther inland. However, the old drainfield will be maintained for additional infiltration.

7. The State Department of Health requires a minimum 100 foot buffer between the OHWM and the edge of the drainfield. Beach erosion has resulted in landward migration of the OHWM toward the drainfield. Currently the distance from the drainfield to the OHWM is approximately 104 feet.

8. Phase one of the project will reconfigure the drainfield so as to place it somewhat more landward than at present and then provide permanent protection for it by installing a buried rock revetment just landward of the OHWM.

9. The reconfiguration of the drainfield will involve the abandonment of the waterward two laterals. The same area of drainfield will be maintained by adding 15 feet to both ends of the remaining laterals. This reconfiguration will necessitate removal of an existing vault toilet adjacent to the drainfield and replacing it at another location with either a bathroom facility or a new vault toilet, depending on budget. If a new bathroom facility is built, it will be connected to the inland sewage treatment system and electricity will be extended to the new building.

10. The reconfigured drainfield will be protected by installing 620 linear feet of rock revetment just landward of the OHWM. The revetment will consist of geotextile fabric, a bedding layer and a three-foot thick armor-stone layer. This installation will be buried.

11. Sand and pea gravel excavated for installation of the revetment will be reused along the shore for dune features. Five new 10-foot-wide pedestrian beach access points will be installed, using pre-cast, hand placed, concrete pavers above the top of the slope. The shore between these access points will be backfilled for the dune features and protected from pedestrian impacts by a cedar split rail fence. Shrubs and grasses will also be planted to aid stabilizing the upper beach and scarp.

12. Phase two is conceived as providing long term protection of the shore, fostering both improved habitat for fish and wildlife and a better recreational beach. It will consist of shore stabilization and restoration below the OHWM. The work should improve forage fish spawning substrate, reduce erosion, and diminish the need for beach re-nourishment.

13. The project will remove existing deteriorated revetments and groins installed as part of previous shoreline stabilization efforts, including the removal of angular rock that was scattered to the north and south of the revetments.

14. A low profile beach sill, constructed of rounded cobble and boulder-size material, will be installed at the northwest corner of the park perpendicular to the shore to aid in retention of beach fill and to minimize beach loss due to wave action. A rock groin, replacing the existing deteriorated revetment, will be installed at the southwest corner of the site to provide wave attenuation on the south beach. This groin will consist of a geotextile fabric layer, an inner rock core and an outer flat slope of small armor.

15. Phase two will also involve the augmentation of the existing west and south beaches by excavating existing material and installing two selected layers of beach fill, re-vegetation, and dune reconstruction. It is anticipated that the work will enhance habitat conditions by improving the substrate and slope.

16. After review of an Environmental Checklist, Parks issued a Determination of Non-Significance (DNS) under the State Environmental Policy Act (SEPA) on April 9, 2012. There were no appeals.

17. The proposal was submitted to the County on May 2, 2012. Notice of the development application was published on May 17 and May 24, 2012. Only one comment letter was received, noting that the coastal recession problems of the area are man-caused, but supporting the project assuming best available science is used.

18. A Biological Assessment by Grette Associates, dated January 2012, was submitted. Based on the assessment, the project was determined to be in compliance with the County's Critical Areas Ordinance. Critical areas disturbed by the shoreline stabilization efforts will be re-planted with native vegetation and restored to their previous function and value. Compliance will be reinforced by the regulatory requirements of other jurisdictions.

19. The proposal was reviewed by Staff under the local SMP provisions for Shoreline Defense Works. The proposed actions constitute a substantial development. Under SMP 7.15(2)(A)(2), breakwaters, jetties and groins require conditional use approval.

20. The Staff analysis, as set forth in the Staff Report, determines that both phases of the project are consistent with the criteria for Substantial Development Permit approval and with the criteria for Shoreline Conditional Use Permit approval. 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.

21. The proposal is consistent with the statutory policies for Shorelines of Statewide Significance by virtue of recognizing the statewide interest, embodying long term over short term benefit, protecting the resources of the shorelines increasing public access, and enhancing public recreational opportunities.

22. 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.

2. The requirements of SEPA have been met.

3. The proposal, as conditioned, is consistent with the Critical Areas Ordinance.

4. The proposal is consistent with the preferences for Shorelines of Statewide Significance set forth in RCW 90.58.020.

5. Because the proposal, as conditioned, meets SMP 9.02 (Substantial Development criteria) and SMP 11.03 (Conditional Use criteria), the application should be approved.

6. Any find 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 shall abide by the conditions of same.

3. The applicant shall comply with all applicable regulations.

4. The project shall be commenced with two years of the final approval of the Shoreline Conditional Use Permit and shall be completed within five years thereof.

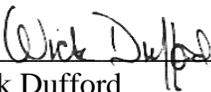
5. If the applicant proposes any modification of the project as hereby approved, a permit revision must be approved by PDS.

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

DECISION

The requested Shoreline Substantial Development and Conditional Use Permit (PL12-0137) is approved, subject to the conditions set forth above.

DONE this 28th day of September, 2012.



Wick Dufford

Transmitted to Applicant on September 28, 2012

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