

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

FINDINGS CONCLUSIONS AND DECISION

Applicant: Morris Nilson
23145 Gunderson Road
Mount Vernon, WA 98273

Agent: Bruce Lisser
Lisser & Associates
P. O. Box 1109
Mount Vernon, WA 98273

File No: PL08-0656

Request: Shoreline Substantial Development Permit
(Perrigo Estates)

Location: 37054 State Route 20; Government Lot 4 and a portion of
SW1/4NW1/4 Sec. 17, T35N, R7E, W.M.

Parcel No: P42971

Shoreline Designation: Rural

Summary of Proposal: To place an access road, associated utilities, and a
drainage infiltration/detention pond within the
shoreline of the Skagit River in connection with the
development of the Plat of Perrigo Estates

Public Hearing: After reviewing the report of Planning and Development
Services, the Hearing Examiner conducted a public hearing
on February 25, 2009.

Decision: The application is approved, subject to conditions.

FINDINGS OF FACT

1. The Plat of Perrigo Estates has been proposed on approximately 83 acres. The division of land involves the creation of 15 one-acre lots just inland of the 200-foot shoreline strip along the Skagit River.

2. The address of the property is 37054 State Route 20. The site is within Government Lot 4 and a portion of SW1/4NW1/4 Sec. 17, T35N, R7E, W.M.

3. Cape Horn Road parallels the Skagit River along the southern part of the subject property. There is a narrow strip of land between the road and the river. Within this strip is a mature stand of conifers and deciduous trees that will be retained. No construction is proposed in the riverfront strip.

4. On the other (north) side of the road, shoreline jurisdiction continues inland to the boundaries of the proposed subdivision lots. Within this area, the only development proposed is: (1) an access road (Perrigo Lane) leading north from Cape Horn Road, (2) waterlines and other utilities for the residential lots, (3) landscaping along the north side of the Cape Horn Road and the east side of Perrigo Lane, and (4) drainage facilities (retention/infiltration area).

5. Except for the minimal development proposed, the subject shorelands will all be devoted to open space (OS-RO),

5. The construction of the road segment, placement of utilities, landscaping and drainage facilities will cost more than \$5,718.00. These activities therefore are not exempt from Shoreline Substantial Development Permit requirements.

6. The shoreline of the river along this reach is a Shoreline of Statewide Significance.

7. A drainage report was submitted which indicates that stormwater from the development can be infiltrated on the site. The shoreline area north of the road will be used for this purpose. Retention/infiltration ditches from the residential area will drain to the retention area along the road.

8. The subdivision was the subject of a Mitigated Determination of Non-Significance (MDNS) issued on November 13, 2008. An Addendum addressing the shoreline aspects of the development was issued on January 6, 2009. No comments were received. No appeals were filed.

9. The MDNS conditions relate to upland development and serve to insure that shoreline impacts will be minimal.

10. The application was reviewed by Planning and Development Services under the Skagit County Shoreline Master Program (SMP) and found to be consistent with it. No conflicts with general state regulations on shoreline development, nor with the policies of the Shoreline Management Act were identified.

11. In particular, the development was found to be consistent with the policies for Shorelines of Statewide Significance. The Staff noted that the majority of the proposed development (including all buildable lots) is to be located outside of the shoreline.

12. The Hearing Examiner concurs with the Staff's analysis. Under the SMP, the access road is a permitted use in the Rural environment, as are the water and other utility lines where, as here, they are undergrounded. The shore setbacks do not apply to the transportation and utility development that will occur in this case. Similarly the drainage retention facilities are allowed as an accessory to the residential development so long as there is no adverse impact on water quality and shore properties. No adverse impacts are anticipated from the stormwater infiltration process.

13. As far as shorelines are concerned, only a minor part of the subdivision development will have any impacts at all. Such impacts as will occur are not likely to be adverse to shoreline values. The proposed landscaping will enhance the aesthetics of the shore area.

14. 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. SMP 9.07.

2. The requirements of SEPA have been met.

3. Under SMP 9.02, a Shoreline Substantial Development Permit may be granted when a proposed development is consistent with (a) the policies and regulations of the local Master Program, (b) the policies of the Shoreline Management Act, and (c) regulations adopted by the Department of Ecology pursuant to the Act.

4. Under the facts found, the proposal, as conditioned below, meets the criteria of the SMP for approval of a Shoreline Substantial Development Permit.

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

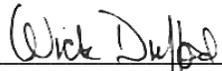
CONDITIONS

1. The project shall conform to the application.
2. The applicant shall comply with the conditions of the MDNS.
3. The applicant shall comply with the approved landscaping plan.
4. The applicant shall comply with the approved drainage plan.
5. Utilities shall be undergrounded.
6. Perrigo Lane shall be built to Skagit County Road Standards for public roads.
7. The project must be commenced within two years of the date of final approval and completed within five years thereof, or the Substantial Development permit shall become void.
8. Failure to comply with any condition may result in permit revocation.

DECISION

The requested Shoreline Substantial Development Permit is approved, subject to the conditions set forth above.

DONE this 13th day of March, 2009.



Wick Dufford, Hearing Examiner

RECONSIDERATION/APPEAL

As provided in the Skagit County Shoreline Master Program, Section 13.01, a request for reconsideration may be filed with Planning and Development Services within five (5) days after the date of this decision. The decision may be appealed to the Board of County Commissioners by filing a written Notice of Appeal with Planning and Development Services within five (5) days after the date of decision or decision on reconsideration, if applicable.