

NOTICE OF DECISION

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

Applicant: Skagit County Department of Public Works
c/o Jennifer Swanson
1800 Continental Place
Mount Vernon, WA 98273

Request/File No: Special Use Permit Modification, PL10-0052

Location: Tract #1, Short Plat DT 19 14-83, at 14104 Ovenell Road, within a portion of Sec. 9, T34N, R3E, W.M. (Parcel #P21274)

Land Use Designation: Bayview Ridge Heavy Industrial (BR-HI)

Summary of Proposal: To replace and upgrade facilities at the Skagit County Recycling and Transfer Station, modifying Special Use Permit #86-018.

SEPA Compliance: Mitigated Determination of Non-Significance (MDNS) issued April 15, 2010. The MDNS was not appealed

Public Hearing: May 26, 2010. 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 the 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 County Department of Public Works seeks to modify a Special Use Permit in order to construct a new waste transfer facility to replace the existing Skagit County Recycling and Transfer Station at the same site.

2. The permit for the existing facility is Special Use Permit #86-018 which was approved June 12, 1986 and modified on October 28, 1992.

3. The location is Tract #1, Short Plat DT 19 14-83 at 14104 Ovenell Road, within a portion of Section 9, T34N, T3E, W.M. The property is situated within the Bayview Ridge Heavy Industrial (BR-HI) zone. The parcel number is P21274.

4. The subject property comprises 10 acres along the south side of Ovenell Road at the southeast intersection of Ovenell and Farm to Market Road. The surrounding land uses are other heavy industrial activities, including solid waste composting and recycling facilities. Plowed fields are located to the west.

5. The property to the immediate east is being developed for a construction, demolition and land-clearing debris handling facility. Allied Waste's curbside collected recyclable materials transfer station is immediately south/southeast. North of Ovenell Road is property owned by the Port of Skagit County which is the site of other industrial uses and the Skagit Regional Airport. In the immediate vicinity are a Puget Sound Energy power and transmission station, a sulfur process/handling facility, a potato processing and storage facility, an organic waste composting facility, a log mill and a lumber mill.

6. At the facility currently on the site, solid waste from around the County is collected and loaded into containers for shipment to the Roosevelt Regional Landfill in Klickitat County. Recyclable materials are collected for distribution to various sites. Originally the facility was constructed as an incineration facility in 1986, but the incinerator ceased operations in 1994, and the building was converted to its current operation, using a crane and grapple system to feed a compactor that builds and ejects bales into shipping containers.

7. Over time, the current facility has undergone increases in maintenance, downtime and overall cost while experiencing decreased operational efficiency. After studying alternatives, Public Works has decided to build a new facility designed specifically for solid waste transfer and recycling.

8. The new facility will consist of new building areas of approximately 28,000 square feet that will house the transfer station, scale house and staff facilities. The existing incinerator building will remain. An approximately 15 foot high retaining wall will be constructed along the south side of the transfer station building to establish grade. A paving section will be constructed that will support fully loaded dump trucks using the new facility. Traffic flow will be improved on site through instituting new traffic patterns that optimize routes for the public, agencies and shipping container travel.

9. The development schedule calls for start of construction in the summer of 2010 and completion in the spring of 2011. The sequence will be:

- a. immediately demolish existing service building;
- b. construct scale-pits/scale house, install scales, build new entrance roadway;
- c. construct recycling area (from east to west);
- d. demolish existing scales and scale house (after new scale is operating);
- e. route commercial vehicles through new entrance to existing transfer building;
- f. route public vehicles through new entrance to existing unloading area;
- g. complete recycling area and route vehicles to it;
- h. demolish existing public unloading area; construct new transfer building, service building, staff facility, and transfer trailer access and egress roadway.

10. The facility currently has 17 employees. After the project is complete this number may increase to 19 (including two additional office staff). The project will be designed to accommodate the possibility of expanded staff needs in the future.

11. Operating hours will continue to be the same as at present: 6:30 a.m. to 6:00 p.m. during weekdays and 8:00 a.m. to 6:30 p.m. Saturday and Sunday. The idea is to stage the work so that the station will remain open during the construction process.

12. Access to the site will be from Ovenell Road as at present. The parking area will be wholly contained within the site and will not encroach on neighbors or on road right-of-way. The service building/staff facilities/transfer building will have 18 parking stalls. At the household waste facility will be three stalls. Traffic levels after the completed project are anticipated to remain at current levels. The project is not expected to generate increased traffic volumes.

13. Internal roadways for circulation between buildings on-site have been identified on the site plan. The new traffic patterns should improve the efficiency of use of the site.

14. A system of catch basins will be installed for stormwater. All stormwater runoff will be directed to a water quality vault. Water from the vault will flow through sloughs which empty into Padilla Bay. Storm water will not be discharged into onsite wetlands. No adverse water quality impacts are anticipated.

15. Lawns and undeveloped forest occupy the northwest, northeast and southwest corners of the property. A chain link fence encloses the entire site. Field investigation confirmed the presence of two small wetlands in the northwest and northeast corners of the property. The one in the northeast corner is exempt from buffer protection because of its small size and low quality. The other wetland is slightly larger but is also of low quality, consisting exclusively of herbacious vegetation that is regularly mowed. It is rated low (2 out of 32 points) for water quality and hydrologic functions. Habitat functions also rated low. No adverse impacts to this degraded wetland are anticipated from the project. The Critical areas review staff approved the project after Critical Areas Ordinance Review with the recording of a Protected Critical Area Site Plan.

16. Environmental review was conducted pursuant to the State Environmental Policy Act (SEPA). A Mitigated Determination of Non-significance (MDNS) was issued on April 15, 2010. No appeals were received. The MDNS imposed the following conditions:

- a. Temporary erosion/sedimentation control measures, as approved by the Skagit County Department of Public Works, shall be in place prior to the placement of any fill material. The applicant shall maintain all temporary erosion/sedimentation control measures in accordance with the Skagit County Drainage Ordinance. Said measures shall remain in place until completion of the project.
- b. The applicant shall comply with Northwest Air Pollution Authority requirements.
- c. The applicant shall comply with the provisions of Chapter 14.32 of the Skagit County Code, the Skagit County Drainage Ordinance, as it relates to increased runoff resulting from additional impervious surfaces. Stormwater controls will need to be installed at the time of building permit application. The design will need to be in accordance with the 2005 Stormwater Management Manual for Western Washington.
- d. The applicant shall comply with Fire Code Standards.
- e. An engineered soils compaction report shall be required for all structures placed on fill material.
- f. The applicant shall comply with all relevant provisions of 14.24 of the Skagit County Code (Skagit County Critical Areas Ordinance).
- g. The applicant shall comply with all requirements of the Skagit County Health Department.
- h. The proposal shall comply with all applicable requirements of SCC 14.16. Most notably, SCC 14.16.900 BR-HI, SCC 14.16.210 Airport Environs Overlay, SCC 14.16.215 Bayview Ridge Urban Growth Area, SCC 14.16.830 Landscaping SCC 14.16.840 Performance standards, and SCC 14.16.850 General provisions.
- i. A Construction Stormwater General Permit (NPDES) may be required by the Department of Ecology.

17. The site is served by public water and public sewer. The roads in the area are adequate to accommodate the impacts of the development. New environmental impacts are not anticipated.

18. The proposed special use does not pose a demonstrable threat of contamination to adjacent AG-NRL designated lands.

19. None of the County agencies contacted had critical comments. Neither the City of Burlington, the Port of Skagit County, nor the Washington State Department of Transportation submitted comments.

20. The building review comments of the Department of Planning and Development Services are reflected in conditions of approval.

21. The general 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 use in . . . Natural Resource Lands, the impacts of 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 or services and will not adversely affect public services to the surrounding areas, or conditions can be established to mitigate adverse impacts on such facilities.

22. The Staff Report analyzes the proposal against these criteria and finds that, as conditioned, it will comply with them. 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.

23. 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 14.06.050(1)(b)(ii).

2. The requirements of SEPA have been met.

3. SCC 14.16.190(6)(b) allows "solid waste processing, recycling and transfer facilities" as Hearing Examiner Special Uses.

4. There are no specific Code criteria for the modification of Special Use Permits. Therefore, permit modifications are analyzed under the criteria for new special uses. Under the facts, the proposal meets the requirements for approval of a Special Use Permit. SCC 14.16.900(1)(b)(v)

5. Under the current Code, a new facility of this nature would meet the definition of a "Major Regional Utility Development" requiring an unclassified use permit. However, because the facility already exists at the site and has been permitted through a Special Use Permit, modification of the existing permit is the proper process. An unclassified use permit is not required for the refurbishing of this ongoing operation.

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

CONDITIONS

1. The project shall be constructed and operated as described in the application materials, except as the same may be modified by these conditions.

2. The applicant shall comply with all applicable local, State and Federal regulations regarding environmental disturbance.

3. The applicant shall comply with the conditions of the MDNS, issued April 15, 2010. (See Finding 16.)

4. The applicant shall obtain all other necessary permits and approvals, including building permits, and shall abide by the conditions of same.

5. The site shall continue to comply with all requirements of the Skagit County Health Department.

6. A separate building permit shall be required for each separate building. Building permits shall be required for retaining walls over four (4) feet in height.

7. All buildings shall meet ADA requirements.

8. This Special Use Permit modification shall be void if a complete building permit has not been filed within two years of permit approval.

9. A copy of this decision shall be submitted with the first building permit application.

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

DECISION

The request Special Use Permit Modification (PL10-0052), modifying Special Use Permit #86-018 is approved, subject to the conditions set forth above.

DONE this 16th day of June, 2010.



Wick Dufford, Hearing Examiner

Transmitted to Applicant on June 16, 2010

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