

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

- Applicant:** Washington State Department of Fish and Wildlife
600 Capitol Way North
Olympia, WA 98501
- Contact:** Stephanie.Kuhns@dfw.wa.gov
- Request:** Shoreline Substantial Development Permit. PL20-0130
- Location:** Near 21961 Wylie Road on Fir Island, within NW1/4 Sec. 25, T33N, R3E, W.M. Parcel Nos: P16106 and P16113.
- Shoreline Designation:** Rural, Shoreline of Statewide Significance
- Summary of Proposal:** To raise and widen a spur dike which is being compromised by erosion.
- Public Hearing:** June 23, 2021 in person and via electronic means. Testimony by Planning and Development Services (PDS) staff and Applicant's representative. No public testimony.
- Decision/Date:** The application is approved, subject to conditions. July 6, 2021
- Reconsideration:** Reconsideration may be requested by filing with PDS within 5 days of this decision.
- Appeal:** Appeal is to the Board of County Commissioners by filing with PDS within 5 days of this decision, or decision on reconsideration if applicable.
- Online Text:** The entire decision can be viewed at:
www.skagitcounty.net/hearingexaminer

FINDINGS OF FACT

1. The Washington State Department of Fish and Wildlife (WDFW) seeks a Shoreline Substantial Development Permit to raise and widen a spur dike where it is being compromised by erosion.
2. The project is located near 21961 Wylie Road on Fir Island. The site is within NW1/4 Sec. 25, T33N, R3E, W.M. Parcel numbers are P16106 and P16113.
3. The site is designated Rural in the Skagit County Shoreline Management Master Program (SMP). The Skagit River is a Shoreline of Statewide Significance.
4. The site is on property associated with the WDFW Headquarters Unit off of Game Farm Road which includes a covered area, shed, a mobile trailer office space and onsite residence for the Wildlife Area Manager. The public uses the property for bird watching, waterfowl hunting and other light recreation.
5. Outside of the WDFW acreage, uses are commercial agriculture and residential.
6. The spur dike involved is part of the main public access trail at the Headquarters Unit following the Wylie Slough Restoration Project.
7. The dike was left in by the 2009 project to protect the Wylie Slough which drains portions of Fir Island. The present project consists of repairs and structural maintenance of the spur dike, allowing it to continue to serve as part of the drainage infrastructure of Dike District #22.
8. Portions of the dike are being undermined and are cracking and settling. This has raised concerns about the dike's long-term integrity and the safety of those recreating in the area. The dike has been overtopped during extreme high tides and would likely be overtopped during a flood event.
9. The project will replace eroded material up to 1.5 feet, restoring the dike to its original height. The existing dike top will be graded and then dike material and gravel will be added. Quarry spalls will be placed on the southeasterly side for

erosion protection. An excavator will remove vegetation that has grown into the dike and dig a 1.5-foot-deep keyway at the toe of the dike

10. Repair activities will occur within the 100-year floodplaln, above and below the Ordinary High Water Mark. Around 14,076 square feet of wetland will be permanently impacted.

11. A mitigation plan has been developed with assistance from the Skagit River System Cooperative. Mitigation will regain and restore 10,218 feet of habitat.

12. A Determination of Non-Significance (DNS) was issued on March 12, 2021. The DNS was not appealed.

13. Notice of Development Application was published on January 7 and 14, 2021. Notice was mailed to nearby owners. No comments were received. Notice of the public hearing was published on June 3, 2021. At the hearing there was no public testimony.

14. The application was circulated to various local departments and agencies. Comments are reflected in conditions of approval.

15. The project will require a Hydraulic Project Approval from WDFW and approval by the U.S. Army Corps of Engineers. These approvals will effectively substitute for the requirements of the Critical Areas Ordinance.

16. The County Staff evaluated the application in light of the local Shoreline Management Master Program (SMP) and determined that the proposal, as conditioned, will be consistent with the applicable shoreline requirements. 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.

17. No changes to the river channel hydraulics or floodway characteristics are anticipated. There are no predicted impacts to the area shore and hydraulic processes, adjacent properties, shoreline or water uses. The proposed dike repair will allow for safer use of the public access trail on top of the dike.

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

CONCLUSIONS OF LAW

1. The Hearing Examiner has jurisdiction over these proceedings. SMP 9.06.
2. The requirements of the State Environmental Policy Act (SEPA) have been satisfied.
3. The proposal, as conditioned, is consistent with the requirements of Shoreline Management Master Program for a Shoreline Substantial Development Permit. SMP 9.02(1).
4. The policies for Shorelines of Statewide Significance are met.
5. Any finding herein which may be deemed a conclusion is hereby adopted as such.

CONDITIONS

1. The proposal 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 permits and approvals required by other governmental agencies, and shall abide by the conditions of same. A copy of these permits and approvals shall be submitted prior to issuance of the County's grading permit.
3. Plans for the grading permit must be prepared by a licensed civil engineer. A drainage narrative shall be provided, including offsite analysis. If the driving surface along the dike meets the trigger thresholds for stormwater review, the minimum requirements must be addressed.
4. Temporary erosion/sedimentation control measures shall be used in accordance with Chapter 14.32 SCC (Stormwater Management).
5. The applicant shall comply with all other relevant State and County regulations.

6. A copy of this decision shall be submitted with the grading permit application.

7. The applicant shall comply with the mitigation plan developed for this project.

8. The project shall be commenced within two years of final shoreline permit approval and shall be completed within five years thereof.

9. If the applicant proposes any modification of the subject proposal, as approved, it shall notify Planning and Development Service prior to the start of construction.

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

ORDER

The requested Shoreline Substantial Development Permit (PL20-0130) is approved, subject to the conditions set forth above.

SO ORDERED, this 6th, day of July, 2021.



Wick Dufford, Hearing Examiner

Transmitted to Applicant and County Staff July 6, 2021.