

FINDINGS, CONCLUSIONS AND DECISION

Applicant: Walla Walla University
Rosario Beach Marine Laboratory
15510 Rosario Beach Road
Anacortes, WA 98221

Agent: Schemmer Engineering, PLLC
c/o James T. Schemmer
3014 Commercial Avenue, Suite C
Anacortes, WA 98221

File No: PL08-0665

Request: Shoreline Substantial Development Permit

Location: 15510 Rosario Beach Road, within a portion of Sec. 22, T34N,
R1E, W.M.

Parcel No.s: P19543, P19544, P19576, P19578, P19588, P19589

Shoreline Designation: Rural Residential

Summary of Proposal: To build a 365-foot buried bulkhead two feet landward of the top of the low bank along Rosario Beach. The bulkhead will be anchored in place with buried ecology blocks or helical piles. Woody debris will be placed in front of it. The space between the woody debris and the bulkhead will be filled with one to two inch cobbles, covered with sand and planted with dune grass and other salt resistant native species. The project also involves repairing the foundation of an existing building, providing shore protection for a saltwater pump station and repairing an existing small boat launch, by replacing a concrete slab with concrete pillars supporting boat launch rails.

Public Hearing: After reviewing the report of Planning and Development Services, the Hearing Examiner conducted a public hearing on January 27, 2010.

Decision: The application is approved, subject to conditions.

FINDINGS OF FACT

1. The Rosario Beach Marine Laboratory of Walla Walla University seeks a Shoreline Substantial Development permit for projects at its research facility on Rosario Beach.

2. The subject property is located at 15510 Rosario Beach Road within a portion of Sec. 22, T34N, R1E, W.M. The parcels involved are P19543, P19544, P19576, P19578, P19588 & P19589. The shoreline designation of the property is Rural Residential. The setting is the shore of a small bay on Rosario Strait.

3. The water's edge at the site is a low bank with a relatively flat terrace on the upland behind it. Research facility buildings are in an open area landward of the top of the bank. Inland about 450 feet from the shore is the beginning of dense forest. Large drift logs have been deposited at the toe of the bank in the vicinity of the Ordinary High Water Mark (OHWM). The beach consists of mixed sand and gravel.

4. The applicant wishes to construct a bulkhead along the low bank shoreline to protect the research facility from further erosion. Under the hammering of storm waves portions of the bank are breaking away. It is anticipated that, without stabilization, the bank will continue to recede. The applicant and Staff agree that some buildings and developments at the site are threatened by wave erosion.

5. Along with constructing the bulkhead, the applicant proposes to repair the foundation of an existing building, provide shore protection for a saltwater pump station and repair an existing boat launch that extends 165 feet waterward of the Ordinary High Water Mark (OHWM).

6. The bulkhead will be a mixture of hard and soft shore protection mechanisms. About two feet landward of the top of the bank a wall of large rocks (three man) will be buried to a depth of about five feet. In back of the rock wall, a layer of quarry spalls will be inserted with pea gravel on top. Filter fabric will be placed between the undisturbed earth and the quarry spalls. Roughly three feet seaward of the toe of the existing bank, logs will be arranged laterally along the beach, anchored in place by chains attached to buried ecology blocks or helical piles. Behind these logs will be a layer of cobbles, covered by sand planted with dune grass and other salt resistant native species. The grassy surface will slope up to the buried rock wall. The shore protection construct will extend the entire length of the facility's waterfront -- 365 feet.

7. The implementation of this design will produce a beachfront that has the same character and appearance as the present beach. The buried rock wall will not be visible.

8. The bulkhead design was professionally prepared by an engineering firm, Schemmer Engineering, PLLC. The design was developed with input from the County, Washington Department of Fish and Wildlife (DFW), U.S. Army Corps of Engineers (Corps), and Skagit River Systems Co-operative (tribal interests).

9. The property adjacent to the north is residential. To the south is a portion of Deception Pass State Park, owned by the Washington Parks and Recreation Commission. Two owners of the adjacent property to the north testified at the hearing in support of the project. Two other owners of property on the beach to the north wrote letters endorsing the proposal.

10. Initially the Washington Department of Ecology expressed concerns about bulkheading the property. These concerns were addressed in subsequent conversations between County Staff and Ecology about the inclusion of soft shore protection features in the design.

11. Neither the designer nor the consulted agencies anticipates any significant impact on natural shore processes as a result of the bulkhead construction. A Fish and Wildlife Study prepared by Wetland Resources, Inc., was issued on September 18, 2008. The study concluded that there will be little change in the overall morphology of the shoreline and that the proposal is not expected to have any detrimental effects on the aquatic habitat.

12. Geo Test Services Inc. conducted a geologic hazard evaluation of the bulkhead project. Their report, dated February 20, 2009, concluded that construction of the bulkhead would not adversely affected the bluff slope or upland stability and "would in fact enhance it." No adverse effects on adjacent properties were forecast.

13. A Hydraulic Project Approval (HPA) for the bulkhead was issued by the Department of Fish and Wildlife on August 19, 2009. The approval contained a number of conditions, including a requirement that "all upland drainage tightlines shall be incorporated into the bulkhead near beach grade to prevent erosion of the shoreline."

14. Approval from the Corps was received on December 2, 2009, under the terms of Nationwide Permit 3.

15. A Mitigated Determination of Non-Significance (MDNS) under the State Environmental Policy Act (SEPA) was published on October 1, 2009. The MDNS was not appealed.

16 The MDNS conditions were standard requests for compliance with applicable regulations, as follows:

- The public right-of-way shall be kept clean. Tracking mud and debris off site shall not be allowed.
- The applicant shall comply with Northwest Air Pollution Authority requirements.
- The applicant shall comply with the provisions of Skagit County Code 14.24, Critical Areas Ordinance. All critical areas and associated buffers

impacted by the proposal shall be, at a minimum, restored to its previous function and value immediately following completion of the project.

- Temporary erosion/sedimentation control measures, as approved by the Skagit County Department of Public Works shall be in place prior to the initiation of the project pursuant to Skagit County Code (SCC) 14.32, Drainage Ordinance. The applicant shall maintain all temporary/erosion/sedimentation control measures in accordance with the Skagit County Drainage/Erosion/Sedimentation Control Ordinance. Said measures shall remain in place until completion of the project.
- The project shall comply with noise, vibration and light/glare limitations as per SCC 14.16.840.
- The project is limited to those activities described in the SEPA checklist and supporting documents. Significant deviation from the proposal may require additional review and approval by Skagit County Planning and Development Services.
- The applicant shall comply with the provisions of Washington State Administrative Code (WAC) 173-200 & 173-201A as required to prevent surface water quality and groundwater impacts. Best management practices shall be utilized to prevent interference and/or degradation of water quality.

17. The existing boat ramp is failing. The proposed repair involves the removal and disposal of the present concrete slab ramp. The new ramp will be a marine railway elevated a minimum of 0.5 feet above the beach grade on concrete pillars. The present slab system blocks beach transport. The new structure will place two concrete pads flush with the beach, allowing beach transport beneath the raised rails. The current winch and trolley launch system will be retained. The upgraded launch facility will be the same length (165 feet) as the present one.

18. The site has an existing building and an adjacent research pump station that are currently being undermined by wave induced erosion and improperly routed storm drains. The proposal is to replace the existing building's foundation with a new concrete foundation wall. This wall will be located behind the bulkhead and soft shore armoring described earlier. The storm drain problem will be solved by rerouting storm water from roof drains to energy dissipating riprap via a four inch pipe discharging waterward of the proposed soft shore armor.

19. The shoreline projects were evaluated under the local Shoreline Master Program (SMP), focusing on the policies and regulations for Marinas and Launch Ramps (SMP Section 7.07) and for Shoreline Defense Works (SMP Section 7.15).

20. The Staff Report contains an exhaustive analysis of the project under the above SMP sections and concludes that, as conditioned, the proposal will be consistent 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.

21. There was no testimony at the hearing in opposition to the project.

22. From the shorelines management perspective, the central conclusion about the work proposed is that it will not significantly interfere with natural geohydraulic processes and will therefore protect the integrity of the natural shorelines. Thus, the innovative design is likely to achieve both protection of the property and protection of the shoreline environment.

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 persons and the subject matter of this proceeding. SMP 8.07.

2. The requirements of SEPA have been met.

3. As conditioned, the proposal is consistent with the applicable policies and regulations of the local Shoreline Master Program.

4. The proposal does not violate the policies of the Shoreline Management Act, nor any regulation of the Department of Ecology relating to shorelines or shoreline permits.

5. Accordingly, the criteria for approval of a Shoreline Substantial Development Permit have been met. SMP 9.02.

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

CONDITIONS

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

2. The applicants shall comply with all conditions of the MDNS issued in this matter. (See Finding 16.)

3. The applicants shall comply with the conditions of the HPA issued by DFW and of Nationwide Permit 3 issued by the Corps of Engineers.

4. If the applicant proposes any modification of the subject proposal, it shall request a new permit or permit revision from Planning and Development Services.

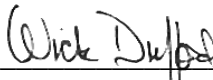
5. The project shall be commenced within two (2) years of the date of final approval of this permit and shall be completed within five (5) years thereof or the permit shall become void.

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

DECISION

The application for a Shoreline Substantial Development Permit (PL08-0665) is approved, subject to the conditions set forth above.

DONE this 8th day of February, 2010.



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.