

NOTICE OF DECISION

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

Applicant: Skagit County Department of Public Works
1800 Continental Place
Mount Vernon, WA 98273

Request/File No: Shoreline Substantial Development Permit, PL12-0150

Location: Francis Road between mileposts 3.75 and 5.14, within N1/2 Secs. 2 and 3, T34N, R4E, W.M.

Shoreline Designation: Rural

Summary of Proposal To upgrade an existing public roadway to eliminate sight hazards. The completed project will include two 12-foot paved driving lanes, eight-foot shoulders, and stormwater treatment swales.

SEPA Compliance: Mitigated Determination of Non-Significance (MDNS) issued June 14, 2012. No appeals.

Public Hearing: July 25, 2012. Planning and Development Services (PDS) recommended approval.

Decision: The Shoreline Substantial Development Permit 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 Skagit County Department of Public Works seeks a Shoreline Substantial Development Permit to make modifications along approximately 1.39 miles of Francis Road, north of Mount Vernon.

2. The project will occur between mileposts 3.75 and 5.14. A portion of the project will be within recently acquired right-of-way. The site is within N1/2 Secs. 2&3, T34N, R4E, W.M.

3. The property affected is designated as Rural environment under the local Shoreline Master Program. To the north of the current road alignment is DeBay's Slough, a Type S water. The slough is about 70 feet from the road at its closest approach. Because the road is situated within the Nookachamps Basin, the entire project is within shoreline jurisdiction.

4. Francis Road is classified as a rural minor collector. It currently consists of two 11-foot travel lanes with substandard three-foot gravel shoulders. It is bordered by agricultural uses. There is one single family residence within the project vicinity. The eastern end of the proposed modifications are closest to the slough and to the DeBay's Slough Wildlife Area, owned by the Washington State Department of Fish and Wildlife (WDFW).

5. The roadway along the project reach is relatively flat. The project will realign the road by reducing curvature with the aim of increasing visibility and safety. The straight segments of the roadway will remain in the same alignment as at present. Project activities include clearing, grubbing, road reconstruction, new drainage ditches and stormwater facilities. The abandoned roadbed will be re-vegetated.

6. The project will involve approximately 17,283 cubic yards of excavation and 17,414 cubic yards of fill. None of this activity will affect a water body. However, some 60,885 square feet of low-functioning shoreline buffer area will be impacted. The realignment will result in a gain of 49,643 square feet of restored buffer area.

7. The completed project will include two 12-foot paved driving lanes and eight-foot paved shoulders. Stormwater treatment swales will be installed. Existing culverts that must be replaced will be installed at the same size and elevation as the existing culverts. Existing utilities will be relocated to accommodate the new alignment in conjunction with the road improvements.

8. Public Works hopes to begin construction on the late summer of 2012. During construction, normal traffic patterns will be temporarily interrupted and alternate routes will be established. Local access will remain open, but some delays may occur. Ultimately all existing access will be preserved, including the WDFW access from Francis Road.

9. Review was conducted under the State Environmental Policy Act (SEPA). After evaluation of an environmental checklist, a Mitigated Determination of Non-Significance (MDNS) was issued on June 14, 2012. There were no appeals. The MDNS set forth the following conditions:

1) The applicant shall comply with all applicable provisions of Skagit County Code, including but not limited to, Chapter 9.50 Noise Control; 14.32 Drainage Ordinance.

2) The applicant shall comply with all applicable requirements of the Washington State Department of Fish and Wildlife to protect fisheries and wildlife resources.

3) The applicant shall comply with all applicable requirements of the Washington State Department of Ecology under Section 401 of the Clean Water Act certification process.

4) The applicant shall comply with the applicable requirements of the Washington State Department of Archaeology and Historic Preservation. If cultural resources are discovered during project activities, proper procedures and notification protocols shall be implemented.

5) The applicant shall comply with the applicable requirements of the Northwest Clean Air Agency.

6) Temporary erosion, sedimentation and drainage control measures shall be in accordance with local, state and federal requirements. Such measures shall be in place prior to commencement of soil disturbance, and shall be maintained for the life of the construction activities.

10. The project is within an A7 designated flood hazard area and must obtain a floodplain development permit.

11. A critical areas site assessment was professionally prepared by Widener Associates and submitted in June of 2012. Critical areas in the vicinity include the Debay's Slough and associated wetlands. The standard buffer is 200 feet.

12. Roads may be located within buffers as long as there are no alternative routes, the activity will have minimum adverse impact on critical areas, surface and ground water quality will not be degraded, and the buffer intrusion is fully mitigated.

13. The project meets these requirements. The proposed alignment was selected, after consideration of numerous alternatives, as the best option for achieving the safety aims of the project with the least impact on agricultural lands and critical areas. Water quality will be protected by media filter drains along the shoulders. Buffer enhancement will be accomplished by the installation of new native vegetation.

14. The application was circulated to County departments. Their comments are reflected in conditions of approval.

15. The Staff analyzed the proposal in light of the local Shoreline Master Program (SMP). Transportation facilities are permitted in the Rural shoreline, subject to general

regulations. The realigned road will, in fact, be located farther from the slough than at present. The proposed roadway improvements will have no effect on flood plain capacities.

16. The Staff concluded that the proposal, as conditioned will be consistent with the local SMP. 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. Any conclusion herein which may be deemed a finding is hereby adopted as such.

CONCLUSION 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, as conditioned, meets the policies and regulations of the local shoreline master program. The project is consistent with the Shoreline Management Act and the regulations of the Department of Ecology. Accordingly the criteria for granting a Substantial Development Permit have been satisfied. SMP 9.02.

5. Any finding 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. These include, but are not necessarily limited to, a floodplain development permit and a grading permit.

3. The recommendations of the Widener and Associates site assessment, dated June 2012, shall be carried out.

4. Within 30 days of plant installation, the applicant shall submit an as-built site plan of the mitigation plantings and shall provide photographs of the installed plants.

5. The applicant shall determine if any wells are located within 100 feet of the proposed road and side ditching. If any wells are located within this distance, the side ditch must be tight lined or hard surfaced to direct surface runoff away from the well(s).

6. The applicant shall notify the Fire Marshal's office of the project timeline as soon as it is determined, so that information can be given to local first responders.

7. The applicant (and its contractors) shall comply with all relevant regulations, including but not limited to Chapters 173-201A and 173-200 WAC (surface and ground water quality), Chapter 173-60 WAC (noise limits), Chapter 14.32 SCC (County requirements for temporary erosion/sedimentation control).

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


9. If the applicant proposes any modification to the project as hereby approved, a permit revision must be approved by PDS prior to starting construction.

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

DECISION

The requested Shoreline Substantial Development Permit (PL120150) is approved, subject to the conditions set forth above.

DONE, this 7th day of August, 2012.



Wick Dufford, Hearing Examiner

Transmitted to Applicant on August 7, 2012.

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