

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

FINDINGS, CONCLUSIONS AND DECISION

Applicant: Sierra Pacific Industries
c/o Bob Ellery
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Redding, CA 96049

Agent: Geomatrix Consultants, Inc.
c/o Eric Hansen
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File No: PL05-0672

Request: Special Use Permit

Location: 14503 Mc Farland Road, within a portion of Sec. 9, T34N,
R3E, W.M.

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

Summary of Proposal: To construct a lumber manufacturing facility consisting of three structures that will exceed 40 feet in height – a stack (110 feet), a boiler (105 feet) and a sawmill (50 feet). The complex will include a cogeneration facility that will use steam to dry lumber and to generate electricity for the mill and for the regional power grid.

Public Hearing: After reviewing the report of Planning and Development Services, the Hearing Examiner conducted a public hearing on December 7, 2005.

Decision: The application is approved, subject to conditions.

FINDINGS OF FACT

1. Sierra Pacific Industries (applicant) seeks Special Use Permits for features of a lumber manufacturing facility to be built in the Bayview Ridge Heavy Industrial (BR-HI) district.

2. The lumber manufacturing use is permitted outright in the zone. It will consist of a sawmill, dry kilns, a planer mill and a cogeneration facility. Three of the structures will require a Hearing Examiner Special Use Permit in order to exceed 40 feet in height. See SCC 14.16.190(5)(j). In addition, the cogeneration facility will constitute a “major utility,” also requiring a Hearing Examiner Special Use Permit. See SCC 14.16.190(5)(e).

3. The proposal is for the applicant to acquire an overall site of approximately 144 acres in size, located east of Farm to Market Road, north of State Route 20 and south of Ovenell Road, within a portion of Sec. 9, T34N, R3E. W.M. The lumber manufacturing facility will occupy approximately 50 acres, located on a portion of a site previously developed and permitted as the Fredonia Business Park.

4. The property is bordered on the west by the Fredonia Grange and several industrial uses, including the defunct lignin processing plant (now operating as a bio-diesel plant), Washington Alder (lumber mill) and Rabanco (solid waste rail export). To the north, the site is bordered by a private parcel and Ovenell Road. To the east lies property that is undeveloped, except for a farm abutting the southeastern portion. To the south are the Burlington Northern Santa Fe Railroad track, State Route 20, and an easement for a number of utilities.

5. The property is approximately one mile southwest of Bayview Skagit Regional Airport and approximately five miles west of the City of Burlington. The Port of Skagit County maintains the property north of Ovenell Road in this area which includes several commercial and industrial building sites.

6. The project will take place in the southwest portion of an area addressed by the pending Bayview Ridge sub-area plan. The proposal does not conflict with the new planning document. Indeed, under the pending plan, the current height limits will be repealed.

7. The overheight features of the project include the cogeneration facility stack at 110 feet, the boiler at 105 feet and the sawmill at 50 feet. These heights are consistent with existing structures to the west. No residential views will be blocked in any direction. The overall appearance of the facility will be consistent with its industrial setting. The proposed heights are within the terms of the existing Aviation Easement for the property.

8. The cogeneration facility will burn wood waste in a boiler to produce steam used to dry lumber and to generate electricity for the mill as well as for the regional power grid. The output will be about 30 megawatts. Seven of these will go to the mill, the rest to the grid. The facility will use approximately 380,000 tons of wood waste generated principally by the sawmill.

9. In association with mill, the facility will include a log storage area consisting of three 1,100-foot-long log decks. The sawmill and planer mill will be enclosed in a building. There will be five steam heated kilns to dry green lumber. A fuel house will be built to contain wood waste for the boiler. Three above-ground storage tanks will be installed – a 12,000 gallon diesel fuel tank, a 3,000 gallon gasoline tank, and a 1,000 gallon motor oil tank.

10. Until the cogeneration plant is on line, electricity will be provided by Puget Sound Energy. Water for the facility will be provided by Public Utilities District #1. Sewer service will be available through the City of Burlington. Natural gas will be provided by Cascade Natural Gas. Water, sewer, and natural gas lines have already been extended to the Fredonia Business Park. There is sufficient existing capacity to supply the new facility. No significant demand for fire or police services is expected.

11. Sierra Pacific has provided assurances that the facilities will meet all relevant local, state and federal requirements for new air pollution sources. Emissions will be below levels required for prevention of significant deterioration of air quality.

12. Sierra Pacific has commissioned a noise analysis to evaluate property line sound levels resulting from operations on the site. The report will identify any noise reduction measures needed to ensure compliance with the State's environmental noise standards.

13. Run-off from roofs will be detained in a pond before discharge into the existing off-site storm water system (Indian Slough). Run-off from paved areas will be similarly detained and treated in a different pond. The collection system for storm water parallels SR 20 and eventually discharges to Padilla Bay. No water pollution impacts are anticipated.

14. Sierra Pacific Industries (SPI) is a family-owned wood products company based in Redding California. The company recently constructed and is currently operating a state-of-the-art lumber manufacturing facility in Aberdeen, Washington. The proposed facility in Skagit County will be similar to the operation in Aberdeen. The new facility will have the potential to produce approximately 300 million board feet of lumber per year.

15. The applicant states that the finished facility will employ approximately 200 people. The facility will operate in 10 hour shifts over a six day work week. The day shift will be from 6 a.m. to 5 p.m. and the night shift will extend from 6 p.m. to 5 a.m.

The number of workers in the day shift will slightly exceed the number at night. Office personnel will work in the daytime only.

16. Access to the site will remain as at present – one access being from McFarland Road to the southwest off of the east side of Farm to Market Road and the other being from Ovenell Road on the north. McFarland Road has been extended east and north through the site and connected to Ovenell Road as part of the Fredonia Business Park development.

17. The application contains a detailed description of processes to be followed at the facility. Of major concern is how to handle the traffic generated by loaded log trucks coming to the site and by trucks leaving the site, and by the shipping of products away from the site. SPI anticipates that most of the lumber produced will be shipped by rail.

18. A traffic study was prepared by Reid Middleton and reviewed by the Washington State Department of Transportation (WSDOT) and the County Public Works Department. In general, there is adequate capacity on the existing road system to handle anticipated traffic to and from the site. However, there are recommendations as to preferred routes, depending on the status of road improvement projects in the area.

19. An imminent construction project for SR 20 will make it a four lane highway from Interstate 5 to the site and upgrade the SR 20/I-5 interchange. This project is scheduled to begin in 2007 and when complete will make SR 20 the preferred route for trucks both coming to and leaving the site.

20. In the interim, in order to avoid congestion on the present two-lane state highway, it is recommended that County roads be used in preference to SR 20. A possible logging truck path from I-5 could be SR-11 to Josh Wilson Road to Farm to Market Road to Ovenell. On the return, the tight turn northbound from Farm to Market to eastbound Josh Wilson should be avoided. An alternative would be to use eastbound Ovenell to northbound Higgins Airport Way to Josh Wilson.

21. Between Peterson Road and SR 20, Higgins Airport Way is a County road. However, to the north, from Peterson to Josh Wilson, Higgins is privately owned by the Port of Skagit County. The Port has expressed concerns over the costs of maintenance if its private road is to be used for heavy industrial traffic from the SPI facility over the long term. The apparent plan, however, is for significant use of the private portion of Higgins to occur only temporarily until the SR 20 project is complete. Moreover, planned improvements to the Farm to Market Road may eliminate the current problem with right turns onto Josh Wilson.

22. The traffic reviews requested that Peterson Road be named specifically as a non-approved route and that all trucks be prohibited from using McFarland Road at the Farm to Market Road intersection.

23. The testimony at the hearing largely favored avoiding any firm requirements regarding routes for incoming traffic, since logs may come in from all directions and drivers should have the flexibility to react to and work around local traffic issues.

24. In order to accommodate changing shifts, SPI anticipates providing approximately 132 parking spaces on site with no off site employee parking. The site can readily accommodate the proposed parking. Employee traffic will use both available access points.

25. An Environmental Checklist was prepared under the State Environmental Policy Act (SEPA). On October 27, 2005, a Mitigated Determination of Non-Significance (MSNS) was issued. The MDNS was not appealed. Six conditions were imposed, including measures relating to temporary erosion control, air pollution, drainage, fire codes and critical areas. A specific condition restricted trucks from using McFarland Road at the Farm to Market Road intersection.

26. A critical areas study was submitted to the County on August 11, 2005, delineating wetland areas on site. This was reviewed and approved. The grading plan maintains standard buffers on regulated wetlands. Silt fences are included in the grading plan on buffer edges. However, the application describes approximately 5,043 cubic yards of wetland fill associated with the project. A Conceptual Wetlands Mitigation Plan was submitted on October 12, 2005, addressing this activity. Final approval of this plan will be required prior to any work in critical areas or buffers.

27. Comments of County reviewing agencies are reflected in conditions of approval. Neither the City of Burlington nor the WSDOT had comments on the instant application.

28. The criteria for Special Use Permit approval are set forth at SCC 14.16.900(2)(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 uses in ... Natural Resource Lands ..., the impacts on 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 and services and will not adversely affect public services to the surrounding areas, or conditions can be established to mitigate adverse impacts on such facilities.

29. The Staff Report analyzes the application in light of the above criteria and finds 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.

30. There was no adverse public comment on this application. At the hearing there was supportive testimony, emphasizing the employment benefits of this proposal and its likely positive effect on the County's timber industry.

31. 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. SCC 14.06.050(b).

2. The requirements of SEPA have been met.

3. This project will occur in a heavy industrial zone. The lumber manufacturing facility as a whole is permitted outright there. SCC 14.16.190(2)(d).

4. Hearing Examiner Special Use Permits are required for "major utility developments," (SCC 14.16.190(5)(e)), and for "structures greater than 40 feet in height (SCC 14.16.190(5)(j)).

5. "Major utility development" is defined under SCC 14.04.020 as: "utility developments designed to serve a broader community area, or are manned." The proposed cogeneration plant meets this definition.

6. The facts support a conclusion that both the cogeneration facility and the overheight structures will meet the criteria for Special Use Permits, if the conditions set forth below are imposed. SCC 14.16.900(2)(b)(v).

7. The Hearing Examiner declines to specify routes for truck traffic to and from the site. The applicant is asked to engage in ongoing consultations with the Department of Public Works on this subject in order to respond to evolving conditions.

8. 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 altered by these conditions.

2. The applicant shall obtain all other necessary permits and approvals

3. The applicant shall comply with the conditions set forth in the MDNS issued on October 27, 2005.

4. The applicant shall comply with all relevant Code requirements, including the Critical Areas Code (Chapter 14.24 SCC), Performance Standards (SCC 14.16.840), and State Environmental Noise limits (Chapter 173-60 WAC).

5. A hydrogeologist's report meeting the requirements of SCC 14.24.300 shall be approved by the County Hydrogeologist prior to approval of building permits.

6. All trucks shall be prohibited from using McFarland Road at the Farm to Market Road intersection.

7. Trucks shall avoid the use of Peterson Road.

8. On outgoing truck trips to the east, drivers shall be instructed to avoid the right turn at the intersection of Farm to Market Road and eastbound Josh Wilson Road.

9. If it appears that trucks are making extensive use the private portion of Higgins Airport Way, the applicant shall negotiate with the Port of Skagit County over the question of roadway maintenance costs.

10. Until SR 20 is improved to a four lane highway to the site, the applicant shall conduct ongoing consultations with the Department of Public Works on the preferred routes for truck traffic to and from the site. The applicant shall make reasonable efforts to comply with the Department's recommendations.

11. When the SR 20 improvement project is complete, the preferred route to I-5 for trucks accessing the site shall be SR 20.

12. Grading and building permits shall be obtained as required. Proposed buildings shall not use fill as structural support. Full compliances with all Building and Fire Codes shall be required at the time of Building Permit issuance.

13. The applicant is subject to the conditions of the existing Avigation Easement and shall comply with the requirements thereof.

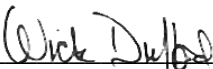
14. The Planning and Development Services Department shall be notified within 30 days of any change in ownership of the subject site or of the business thereon through a letter referencing permit number PL05-0672.

15. The Special Use Permits shall be void unless work is started within two years of the date of permit approval or if abandoned for any period of one year.

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

DECISION

The requested Special Use Permits are approved, subject to the conditions set forth above.



Wick Dufford, Hearing Examiner

Date of Action: January 4, 2006

Date Transmitted to Applicant: January 4, 2006

RECONSIDERATION/APPEAL

As provided in SCC 14.06.180, a request for reconsideration may be filed with Planning and Development Services within 10 days after the date of this decision. As provided in SCC 14.06.120(9), the decision may be appealed to the Board of County Commissioners by filing a written Notice of Appeal with Planning and Development Services within 14 days after the date of the decision, or decision on reconsideration, if applicable.