

NOTICE OF DECISION

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

- Applicant:** Washington State Department of Transportation
Attn: George Carlson/Kevin Stuber
1043 Goldenrod Road, Suite 101
Burlington, WA 98233
- Request:** Shoreline Substantial Development Permit, PL17-0354
- Location:** Intersection of State Route 9, Francis Road, and Old Day Creek Road, located within N1/2 Sec. 1, N34N, R4E, W.M.
- Shoreline Designation:** Rural
- Summary of Proposal:** To construct a roundabout at the intersection of State Route 9, Francis Road, and Old Day Creek Road.
- SEPA Compliance:** Determination of Non-Significance (DNS) issued by WSDOT on April 8, 2017.
- Public Hearing:** October 11, 2017. Testimony by Planning and Development Services (PDS) staff and WSDOT. No public testimony.
- Decision and Date:** The application is approved, subject to conditions on October 17, 2017.
- Reconsideration/Appeal:** Reconsideration may be requested by filing with PDS within 5 days of this decision. Appeal is to 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 Transportation (WSDOT) proposes to build a roundabout on State Route 9 (SR9) near Clear Lake.
2. The location is at the intersection of SR9, Francis Road and Old Day Creek Road, located within N1/2 Sec. 1, T34N, R4E, W.M. Parcels Nos.P23343 and P2311 will be affected.
3. The project requires a shoreline permit because it is sited within a flood plain. The area is designated Rural in the Skagit County Shoreline Master Program (SMP).
4. The site is bordered by residential uses to the north and east. An active agricultural field is located to the southwest.
5. The work involved includes right-of-way acquisition, temporary traffic control, detours, utility relocations, structure removal, erosion control, excavation and fill, stormwater facilities, paving and pavement repair, new illumination, sign installation, and roadside restoration. The center of the new roundabout will be landscaped with native trees and shrubs.
6. One single-family residence located at the southeast corner of the intersection will be demolished. Its septic tank will be removed. In addition, two underground tanks located northwest of the intersection will be removed.
7. The project will involve about 2,960 cubic yards of excavation and 3, 200 cubic yards of fill. Quantities will include pavement, crush surfacing base course, and select borrow.
8. During construction the two intersecting County roads will be closed, necessitating temporary detours. The detour for the closure of Old Day Creek Road will be approximately one-half mile long, directing traffic onto North Front Street south to the next intersection with State Route 9. This route will pass in front of the Clear Lake Elementary school. The detour for the closure of Francis Road will be approximately eight (8) miles long, directing traffic onto Mud Lake Road, then west via Swan Road approximately four miles until the intersection with Francis Road.
9. Each of the two detours will last 14 calendar days for a total of 28 calendar days of detour closure. Vehicle and pedestrian access will be maintained on SR9 during construction by keeping one lane open at all times.
10. Night time construction will occur on 20 non-consecutive nights. Appropriate noise reduction measures will be required by WSDOT.
11. The proposed roundabout is within an A7 designated flood hazard area and a floodplain development permit must be obtained. A demolition permit will also be required. A search disclosed no water wells within 25 feet of the proposed construction.

12. A wetland site assessment and mitigation plan were prepared by qualified professionals. A portion of a wetland is located in an active agricultural field adjacent to the project. The field is regularly mowed and dominated by emergent vegetation. This wetland segment is a part of a large Category II wetland complex that includes Mud Lake to the south. The project will unavoidably impact 0.20 acres of wetland permanently and 0.32 acres of wetland temporarily. The impact will occur in an elevated area historically filled for farm equipment and storage.

13. The applicant has shown compliance with the mitigation sequence of the Critical Areas Ordinance and proposes to purchase credits from the Nookachamps Wetland Mitigation Bank to replace lost buffer functions.

14. WSDOT conducted review pursuant to the State Environmental Policy Act (SEPA). A Determination of Non-Significance (DNS) was issued on April 18, 2017. There were no appeals. No effect determinations were received from United States Fish and Wildlife Service and the National Oceanic and Atmospheric Service.

15. No structures eligible for inclusion in the National Historic Register were found on the site. The Washington State Department of Archaeology and Historic Preservation concurred that no historic property would be affected.

16. A pipe vent of an underground storage tank was found on Parcel No. 23343 and above-ground storage of vehicles and industrial equipment was determined to have occurred on Parcel No. 23311. The underground storage tank was determined to be a remnant of the Vesper Service gas station that operated in the 1930's. This old storage tank will be removed. Soil investigations revealed no evidence of contamination.

17. Storm water analysis determined that the project would maintain existing runoff patterns. A vegetated filter strip will be added to meet treatment requirements. Flow control will not be needed.

18. The Staff reviewed the project in light of the local Shoreline Master Program (SMP) and found that, as conditioned, the proposal complies with the applicable approval criteria for a Shoreline Development Permit. 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.

19. Notice of Development for this project was published, mailed and posted as required by law. There was only one public comment which favored the project.

20. The application was routed to various County departments. None had negative comments.

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

CONCLUSIONS OF LAW

1. The Hearing Examiner has jurisdiction over this proceeding. SMP 9.06(1).
2. The requirements of SEPA have been met.
3. As conditioned, the proposed Shoreline Substantial Development Permit is consistent with the relevant approval criteria. SMP 9.02(1).
4. Any finding herein which may be deemed a conclusion is hereby adopted as such.

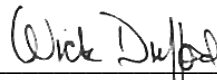
CONDITIONS

1. The project shall be carried out as described in the application materials, except as may be modified by these conditions.
2. All required permits shall be obtained and their conditions shall be adhered to.
3. The applicant shall comply with all applicable State and local regulations, including but not limited to, Chapter 14.24 SCC (critical areas), Chapter 14.32 (stormwater management), Chapter 173-60 WAC (noise), and Chapters 173-200 and 173-201A (surface and ground water quality).
4. Noise control measures required by WSDOT for night time operations shall be observed.
5. Prior to completion of the project, 0.20 acres of buffer credit shall be purchased from the Nookachamps Wetland Mitigation Bank.
6. Appropriate temporary erosion/sedimentation control measures shall be used.
7. The underground storage tank onsite and any contaminated soils above ground shall be removed.
8. The project shall be commenced within two (2) years of shoreline permit approval and completed within five (5) years thereof.
9. If the applicant proposes any modification of the project, it shall notify Planning and Development Services (PDS) prior to the start of construction.
10. Failure to comply with any condition of approval may result in permit revocation.

DECISION

The subject application (PL17-0354) for a Shoreline Substantial Development Permit is approved, subject to the conditions set forth above.

SO ORDERED, this 17th day of October, 2017.



Wick Dufford, Hearing Examiner

Transmitted to Applicant and County staff, October 17, 2017.

See Notice of Decision, page 1, for appeal information.