



Skagit County Planning & Development Services

MEMORANDUM

DATE: September 22, 2023

TO: Skagit County Board of Commissioners

FROM: Kevin Cricchio, AICP, Senior Planner
Skagit County's Planning & Development Services Department

CC: Applicant: Lake Erie Pit 1 LLC
Attn: Bill Wooding
13540 Rosario Road
Anacortes, WA 98221

Landowner: Pit I LLC
C/O Lake Erie Trucking
13540 Rosario Rd
Anacortes, WA 98221

Appellant 1: Evergreen Islands (PL23-0363)
PO Box 223
Anacortes, WA 98221

Attorney 1: Loring Advising PLLC
c/o Kyle Loring
P.O. Box 3356
Friday Harbor, WA 98250

Appellant 2: Sunset Lane Association (PL23-0380)
13136 Sunset Lane
Anacortes, WA 98221

Attorney 2: Sunset Lane Association Board; Frank Parker, Mac Madenwald
13136 Sunset Lane
Anacortes, WA 98221

RE: Closed record appeal hearing #PL23-0363 and PL23-0380 of the Hearing Examiner's remand decision issued on July 13, 2023, regarding Special Use Permit application #PL16-0556 for the proposed expansion to the Lake Erie gravel mine

ZONING/COMPREHENSIVE PLAN: The subject site is located within the Rural Resource-Natural Resource Lands (RRc-NRL) Zoning/Comprehensive Plan Designated Area and designated within the Mineral Resource Overlay.

PROJECT LOCATION: Intersection of Rosario Road and Marine Drive, Fidalgo Island; Located in a portion of Section 11, Township 34 North, Range 01 East, Willamette Meridian

SUBJECT PARCELS: Existing mine: P19108, P19162, & P19165; Expansion to mine: P19158, P90028, P19164, P19155, P19161; Contiguous parcels (same ownership): P19168, & P19163

PROJECT DESCRIPTION:

The applicant filed an application for a mining special use permit (PL16-0556) to expand an existing gravel mining operation from 17.78 acres to 53.5 acres. The gravel mining operation will remove approximately 2,250,000 cubic yards of gravel over an approximately 60-year period and extend to a depth of approximately 50 feet below existing grade. Gravel will be removed from the site by truck and trailer, generating an average of 13 loads per day or 26 truck trips per day. The mining operation will process material onsite with a screen and rock crusher. The site is accessed from Rosario Road on an existing private gravel driveway. No offices or structures are proposed to be built onsite. The subject site is located within the Rural Resource-Natural Resource Land (RRc-NRL) and mineral resource overlay (MRO) zoning/comprehensive plan designated area.

PROJECT CHRONOLOGY:

On December 2, 2016, the applicant Bill Wooding/Lake Erie Pit LLC submitted to Skagit County's Planning and Development Services Department.

Planning Department staff deemed the application complete on January 5, 2017. A Notice of Development Application (NODA) was published on February 2, 2017, mailed to neighboring landowners located within 300-feet of the subject parcel(s), and posted onsite.

After the public comment period ended, the Department requested additional information. After this material was submitted, a SEPA Mitigated Determination of Non-Significance (MDNS) was issued on December 3, 2018.

The Hearing Examiner conducted an open-record public hearing on August 26, 2020, and October 14, 2020. The Hearing Examiner approved the subject Special Use Permit subject to

conditions on November 30, 2020.

On appeal, the Board of County Commissioners remanded the matter (Resolution: R20210038) to the Hearing Examiner to determine if a Geologically Hazardous Site Assessment was needed.

On March 9, 2021, the Hearing Examiner ordered PDS to direct Wooding to provide such an assessment. After review by PDS another hearing would be held on whether additional conditions would be necessary.

PDS asked Wooding to prepare a Geologically Hazardous Area Site Assessment and Geologically Hazardous Mitigation Area Plan consistent with Skagit County Code 14.24.420 and 14.24.430 on March 23, 2021.

On May 27, 2021, PDS reiterated to Wooding that additional information had been requested, that the deadline to provide this information was July 21, 2021, And that failure to provide the information would result in the denial of his application. The requested information was not timely received and the application was denied as a result on July 21, 2021.

The applicant appealed this decision. The Hearing Examiner granted the applicant's appeal and ordered that the site assessment be submitted by the end of September 2022.

On August 12, 2022, the applicant submitted a Geologic Hazard Site Assessment to PDS.

This Geologic Hazard Site Assessment (and letter from Evergreen Islands responding to the assessment), was forwarded to the Watershed Company (the county's Third-Party Review consultant) for review.

On January 19, 2023, the Watershed Company provided PDS with their Third-Party Review findings and response to Evergreen Island's letter.

On March 31, 2023, Skagit County Planning and Development Services received a revised Third-Party Review and response to Evergreen Island letter. It was revised per Skagit County's request for formatting and clarity reasons. Accordingly, it was a non-substantive revision.

On June 28, 2023, the Hearing Examiner conducted an open-record public hearing to review the remanded item .

On July 13, 2023, the Hearing Examiner Issued his decision approving the application with an additional five conditions of approval.

SKAGIT COUNTY PLANNING & DEVELOPMENT SERVICES DEPARTMENT RESPONSE:

Appellant - Sunset Lane Association Board:

The Sunset Lane Association Board take issue with several aspects of this project over the years, including the Hearing Examiner decision to reverse the County's denial for failure to provide additional information. However, that decision was not appealed further and thus is a final decision and not subject to reconsideration as part of this appeal.

Appellant - Evergreen Islands & Sunset Lane Association Board:

Both Evergreen Islands and the Sunset Lane Association take exception with a number of the conclusions and findings (waterflow, impacts to bluffs, impact to groundwater table, perceived omissions, etc.) of the applicant's Geologic Hazard Site Assessment report. In particular, they assert that the mine will impact water flows and heighten risks of landslides to west and south-west of the mine site. They also do not believe it meets the requirements of the Board of County Commissioners remand order, the former Hearing Examiner's order to PDS following remand, and the letter written by the former Assistant Planning Director to the applicant requesting additional information.

PDS Department however hired a third-party consultant (the Watershed Company) to perform peer review of the applicant's Geologic Hazard Site Assessment report and Evergreen Island's comments of the assessment. The Watershed Company reviewed the existing assessment and reports and found:

no significant discrepancies or inaccuracies in the data collection, hydrogeologic analysis, or discussion that would question the study results. The lithology is reasonably consistent with the well logs, the groundwater levels were developed from a comprehensive mass well measurement, and the flow paths were plotted perpendicular to the groundwater surface contours. The aquifer is well characterized at recorded depths and static water levels. The prevailing groundwater flow path is to the north and northeast of the proposed project.

Bluff areas to the west and southwest of the proposed project, including the Dodson Canyon Springs, are 800 to 1,000 feet from the project with base elevations (below the scarps) of about 200 ft. msl. Based on documented groundwater surface elevations and local stratigraphy, it is likely that groundwater seepage is from the regional aquifer. I found no apparent reason to conclude the proposed project would change the rate or volume of groundwater discharge from seepage on the bluffs. (HR at 651-52).

Following the Watershed Company's review, and following review of subsequent comments from Evergreen Islands, PDS believes the concerns raised by the appellants were adequately addressed and the Hearing Examiner correctly incorporated these findings by adding five additional conditions of approval.

Furthermore, PDS believes the items requested of the applicant by former Assistant Planning Director Michael Cerbone in his letter dated March 23, 2021, required by the Hearing Examiner and Board of County Commissioners have been met fully.

STAFF RECOMMENDATION/DESIRED OUTCOME:

Based on review of the Record, Skagit County Planning and Development Services Department recommends that the Board of County Commissioners uphold the decision of the Hearing Examiner and deny appeals PL23-0363 and PL23-0380.



Kevin Cricchio, AICP, ISA, Senior Planner

Dated: 9/22/23

Prepared by: KC