

ISLAND COUNTY HEARING EXAMINER

RE: Critical Areas Alteration	)	File No. CAA 383/04
Applicant: Washington State	)	FINDINGS OF FACT
Parks & Recreation Commission	)	CONCLUSIONS OF LAW
(WSPRC)	)	AND DECISION
	)	

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**SUMMARY OF APPLICATION AND DECISION**

APPLICATION: Washington State Parks & Recreation is seeking approval for a Critical Areas Alteration and a Substantial Development Permit for the proposed improvement of existing park facilities at Lowel Point, within Camano Island State Park. Proposed improvements include resurfacing an existing boat launch ramp, the placement of two floating docks, improvements to the parking area, construction of a boat rinse facility, and installation of a bathroom comfort station.

DECISION: Critical Areas Alteration Approval and a Substantial Shoreline Development Permit are granted to the applicant subject to conditions.

**FINDINGS OF FACT**

INTRODUCTION

The following Findings of Fact and Conclusions of Law are based upon consideration of the exhibits admitted herein and evidence presented at the public hearing on June 21, 2007.

I.

PRELIMINARY INFORMATION

Applicant: Washington State Parks & Recreation Commission (WSPRC)

Property Location: 2269 Lowell Point Rd., Camano Island, WA. The project area is within Camano Island State Park, being a part of the southwest ¼ of Section 36, Township 31 N, Range 2E, W.M. Island County, Washington.

Applicable Ordinances, Statutes and Regulations: ICC 16.19.040 – Permit Classifications, ICC 17.02.110.A – Wetlands, ICC 17.02.110.C – Fish and Wildlife Habitat Conservation Areas, ICC 17.02.060 – Alterations of Wetlands,

Deep Water Habitats, Fish and Wildlife Habitat Conservation Areas and their Surrounding Buffers, ICC 17.05.140 – Shoreline Use Regulations – Docks and Piers.

SEPA: A SEPA Threshold Determination of Non-Significance (DNS) was issued by Island County on October 12, 2004.

Publication: June 5, 2007 – Stanwood/Camano News

Mailing of Notice to Applicant: May 17, 2007

Sign Posted: December 17, 2004

Mailing of Staff Report: June 12, 2007

Date of Application: December 13, 2004

Hearing Date: June 21, 2007

Exhibit Log:

1. Staff Report
2. Sheets 1 to 20, Cover Sheet, Legend, Survey Control Plan, Tesc Plan, Tesc Details, Civil Site Plan, Comfort Station Plan, Boat Rinse Down Facility Plan, Civil Details and notes, Comfort station plans, elevations and sections, structural Plans, Structural Sections and details
3. Memorandum dated 8/8/03 from Ron Grina & Julie Highton, Parametrix, to Damon McAlister
4. Email dated 11/14/03 from Julie Highton, to Joe Burcar, Shoreline Planner attaching summary of Camano Island Boat Launch and Upland Improvements
5. Email correspondence dated 8/25/04 between Julie Highton and Justin Craven, Critical Area Planner
6. Ltr dated 9/28/04 from Peter Kramer, Washington State Parks & Recreation Commission, to Island County Planning
7. Island County Bald Eagle Management Plan dated 9/28/04
8. Biological Site Assessment, Camano Island State Park, Lowell Point Boat Launch Improvements Project
9. Determination of Non-Significance issued by Washington State Parks & Rec. Commission dated 9/28/04
10. Critical Areas Alteration Permit dated 10/25/04
11. Shoreline Substantial Development Permit dated 10/26/04
12. Email correspondence between Tom Murley, Applicant, and Joe Burcar dated 11/17/04
13. Notice of Complete Application dated 12/13/04
14. Request for Comment dated 12/13/04
15. Parcel Summary report

16. Account Apr Summary Snapshot
17. Permits Snapshot
18. Quarter Section Map
19. Parcel info
20. Affidavit of Mailing public notice to property owners within 300 feet dated 12/17/04
21. Affidavit of Mailing public notice to contact person dated 12/17/04
22. Affidavit of Publication dated 12/21/04
23. Affidavit of Posting dated 12/21/04
24. Notice of Application dated 12/21/04
25. Memo dated 12/27/04 from Bill Poss, Development Coordinator, to Justin Craven
26. Ltr dated 1/13/05 from Justin Craven, to Tom Murley
27. Transmittal dated 4/7/05 from Tom Murley, to Justin Craven attaching the Cultural Resources Survey Report
28. Email dated 9/6/05 from Joe Burcar, to Justin Craven
29. Ltr dated 12/28/06 from Tom Murley, to Justin Craven, with attachments
30. Ltr dated 1/9/07 from Bill Poss, to Justin Craven
31. Email dated 1/18/07 from Kara Symonds, to Justin Craven
32. Email dated 1/23/07 from Betty Renkor, DOE, to Justin Craven
33. Ltr dated 3/16/07 from Tom Murley, to Justin Craven
34. Email correspondence between Betty Renkor, DOE, and Justin Craven

## HEARING TESTIMONY

Justin Craven  
Island County Planning & Community Development  
PO BOX 5000  
Coupeville, WA 98239

Tom Murley  
Region Environmental Specialist  
Washington State Parks and Recreation Commission  
NW Parks Development  
220 N. Walnut  
Burlington, WA 98233

## II.

The only issue raised at the public hearing in regards to this application was in reference to the Swinomish Tribe needing additional time to comment on the archeological survey. The Hearing Examiner decided to leave the record open for twenty days for comment from the Swinomish Tribe. The record was also left open for written public comment. No additional comments were received.

Numerous members of the public appeared at the hearing. None of them had any objection to or concerns about the project. They were there to support the project. There was no written public comment.

### III.

The facts set forth in the staff report are supported by the record as a whole and the Hearing Examiner hereby adopts the factual findings in the staff report by this reference. A copy of the staff report is attached hereto and incorporated herein.

The representative for Washington State Parks and Recreation Commission indicated that they had no objection to the conditions proposed by staff in the staff report.

Any Conclusion of Law which is deemed a Finding of Fact is hereby adopted as such. Based on the foregoing Findings of Fact, now are entered the following:

## **CONCLUSIONS OF LAW**

### I.

The proposed project for improvements to the boat launch facility within Camano Island State Park requires a Shoreline Substantial Development Permit and a Critical Areas Alteration approval.

Island County Planning and Community Development staff has reviewed the proposal for consistency with the Shoreline Substantial Development Permit requirements and the requirements for a Critical Area Alteration. Staff has concluded that subject to recommended conditions of approval the proposed project will be consistent with the criteria for a Shoreline Substantial Development Permit and for a Permit for Critical Areas Alteration.

The Hearing Examiner concurs in staff's conclusion. A Shoreline Substantial Development Permit and Critical Areas Alteration approval should be granted to the proposal subject to conditions.

Any Finding of Fact deemed to be a Conclusion of Law is hereby adopted as such. Based on the foregoing Findings of Fact and Conclusions of Law, now is entered the following:

## DECISION

The Island County Hearing Examiner hereby grants approval for a Shoreline Substantial Development Permit and a Critical Areas Alteration for the proposed improvements to the launch facility within Camano Island State Park, subject to the following conditions:

- a. All development/activities shall be in substantial conformance with the approved plans, unless amended in conformance with applicable regulations and/or by the Washington Department of Fish and Wildlife (WDFW), the Department of Ecology (DOE) and/or the Army Corps of Engineers.
- b. The applicant shall receive approval from the State Department of Ecology, if required.
- c. The project may consist of one, but no more than two floating docks as described in the submitted plans.
- d. All required Island County building permits shall be obtained.
- e. Monitoring shall occur as proposed in the Monitoring Plan, dated May 19, 2006. All monitoring reports for the project area shall be sent to Island County Planning and Community Development and the Washington Department of Fish and Wildlife. This includes the report prior to the project and the five yearly reports subsequent to project completion.
- f. If a monitoring report shows detrimental eelgrass impacts resulting from this project, as determined by Island County, WDFW, or DOE, a mitigation plan shall be submitted to Island County and WDFW for approval. A mitigation plan shall be submitted within 2 months of notification that a mitigation plan is required.
- g. Recommendations in the Biological Site Assessment shall be followed unless amended by Island County, WDFW, DOE, or the Army Corps.
- h. No pressure nozzle shall be fitted to the boat rinse station and no soap or scrubbing shall be allowed. Further, the nozzle of the boat rinse station shall not be threaded so that a pressure nozzle cannot be attached.
- i. Signage shall be placed on the dock informing visitors not to beach boats. Signage shall not be placed seaward of ordinary high water mark unless it is attached to the floating dock or pilings, shall not extend higher than any piling, and must conform to the standards of ICC 17.05.210.
- j. In the event that any ground disturbing activities related to this project uncover any cultural materials or human remains, the project manager will cease excavation, secure the area, and contacted the Island County Sheriff's Office and the Island County Coroner to confirm the remains are not related to an on-going crime investigation. If they are determined to be remains of antiquity, the Swinomish Indian Tribal Community, the Office of Archaeology and Historic Preservation, the Washington State Parks archaeologist and the Island County Shoreline Planner (360-678-7816) shall then be contacted.

- k. Work shall not occur when the project area is inundated.
- l. Wet concrete shall be prevented from entering marine waters.
- m. All construction debris shall be properly disposed and no debris shall enter marine waters.
- n. This project shall not result in disturbance to any intact wetland buffers.
- o. The beach substrate shall be graded to pre-project contours upon project completion and any woody debris moved to facilitate construction shall be placed in the location in which it was prior to construction activities.
- p. Any lighting shall conform to Island County lighting standards found in ICC 17.03.180.R.
- q. No lighting is allowed on over-water structures except as required by the Coast Guard for life safety and/or navigation.
- r. Construction pursuant to a shoreline permit shall not begin or be authorized until twenty-one (21) days from the date the final order granting the permit was filed with the Washington State Department of Ecology pursuant to RCW 90.58.140(6), or until all review proceedings are terminated if such proceedings were initiated within twenty-one (21) days from the date of such filing, except as provided in RCW 90.58.140(5), (a) and (b). Issuance of a shoreline permit shall in no way be construed as excusing the applicant from compliance with any other local, state, or federal statutes, ordinances, or regulations applicable to the proposed substantial development.
- s. Pursuant to WAC 173-27-090 (2)(a): Construction shall be commenced or, where no construction is involved, the use or activity shall be commenced within two years of the effective date of a shoreline permit. Provided, that local government may authorize a single extension for a period not to exceed one year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record and the department.
- t. Pursuant to WAC 173-27-090 (2)(b): Authorization to conduct development activities shall terminate five years after the effective date of a shoreline permit. Provided, that local government may authorize a single extension for a period not to exceed one year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record and the department.
- u. Pursuant to WAC 173-27-090 (3): The effective date of a shoreline permit shall be the date of the last action required on the shoreline permit and all other government permits and approvals that authorize the development to proceed, including all administrative and legal actions on any such permit or approval. It is the responsibility of the applicant to inform the local government of the pendency of other permit applications filed with agencies other than the local government and of any related administrative and legal actions on any permit or approval. If no notice of the pendency of other permits or approvals is given to the local government prior to the date established by the shoreline permit or the

- provisions of this section, the expiration of a permit shall be based on the shoreline permit.
- v. Sign the “applicant acknowledgment” and return it to Island County Community Development within fourteen (14) calendar days following issuance of this decision.
  - w. It is the landowner’s responsibility to notify site crews of the above noted permit conditions.

Entered this 16<sup>th</sup> day of July, 2007, pursuant to authority granted under the laws of the State of Washington and Island County.

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MICHAEL BOBBINK  
Island County Hearing Examiner

APPEAL PROCESS:

CAA

This decision of the Hearing Examiner shall be a final and conclusive decision unless within fourteen (14) days following the mailing of such decision a written statement of appeal is filed with the Island County Board of Commissioners by the applicant, a Department of the County, or Party of Record, who is also an Aggrieved Person. Said statement shall set forth any alleged errors and/or the basis for appeal and shall be accompanied by a fee pursuant to the fee schedule adopted by the Board; provided that such appeal fee shall not be charged to a department of the County or to other than the first appellant ICC 16.13.100.b; ICC 16.19.190.