



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Bellingham Field Office • 1440 10th Street, Ste 102 • Bellingham, WA 98225
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March 30, 2011

Gina Gobo Austin, P.E.
Bellingham Parks & Recreation Dept
3424 Meridian Street
Bellingham, WA, 98225-1764

Dear Ms. Austin:

Subject: City of Bellingham Shoreline Conditional Use Permit #SHR2010-00028
BELLINGHAM PARKS & RECREATION DEPARTMENT - Applicant
Shoreline Conditional Use Permit #166 – Conditionally APPROVED

Purpose: Notification of Receipt and Approval of Shoreline Conditional Use Permit

On February 23, 2011, the Department of Ecology (Ecology) received the city's decision on your Shoreline Conditional Use Permit for the construction of a 2,350 ft long public access over-water walkway connecting Boulevard Park with the future park site at the current Cornwall Avenue Landfill. The proposal traverses three shoreline environment designations starting at the Boulevard Park landing – a Conservancy II designation, the overwater span – a Conservancy III designation, and culminating at the Cornwall landfill – an Urban Maritime designation, all within the shoreline jurisdiction of Bellingham Bay, Georgia Strait. The location of the over-water walkway within the Conservancy II and III shoreline designations is not specifically allowed or prohibited and, therefore, requires a shoreline conditional use as an unclassified use.

By law, Ecology must review all Shoreline Conditional Use Permits for compliance with the following:

- The Shoreline Management Act (Chapter 90.58 RCW)
- Ecology's Conditional Use Permit approval criteria (Chapter 173-27-160 WAC)
- The city's Shoreline Master Program (SMP)

After reviewing Shoreline Conditional Use Permits for compliance, Ecology must decide whether to approve, approve with conditions, or disapprove a Shoreline Conditional Use Permit.

Our Decision:

In consideration of the city Hearing Examiner's record and the excellent staff report, and based on extensive field investigation, Ecology has determined that the proposed over-water walkway may be allowed. Although a minor amount of transient vessel anchorage will be displaced, Ecology has determined that the majority of potential anchorage area will be retained and that small boat access to the shoreline will not be hampered. Ecology has also

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determined that marine mammal and avian wildlife will not be unduly disturbed. The large separation from the nearshore eelgrass and macroalgae beds, juvenile salmonid migratory corridor, and marine bird foraging areas provides an adequate buffer from human activities along the walkway. The proposal as conditioned by the city and as additionally conditioned below is determined to be consistent with the provisions of SMP Section 13, Conditional Use Permit Criteria. Ecology approves your Shoreline Conditional Use Permit provided your project complies with the conditions required by the city and Ecology's following two additional conditions:

The applicant shall utilize, as much as is practicable, measures to minimize noise emanating from the walkway grating as a result of bicycle traffic. An example of such noise is evident at the Pattle Point walkway. Although the proposed design for this project is substantially different, the "clanking" noise from bicycle traffic rolling over the grating should be avoided if at all possible.

Although the submitted record is not clear regarding whether a shoreline substantial development permit (SDP) was also processed, Ecology requires that a SDP be processed and approved by the city prior to issuance of building permits for this project. Work carried out pursuant to the state Model Toxic Cleanup Act is not required to obtain shoreline permits but is required to be consistent with the Shoreline Management Act.

What Happens Next?

Before you begin activities authorized by this permit, the law requires you to wait at least 21 days from the "date of receipt" - the date you receive this letter or the date the city receives their copy of this letter. Date of receipt is defined in RCW 43.21B.001 as follows:

- (1) "Business days" means Monday through Friday exclusive of any state or federal holiday.
- (2) "Date of receipt" means : (a) Five business days after the date of mailing; or
(b) The date of actual receipt, when the actual receipt date can be proven by a preponderance of the evidence. The recipient's sworn affidavit or declaration indicating the date of receipt, which is unchallenged by the agency, shall constitute sufficient evidence of actual receipt. The date of actual receipt, however, may not exceed forty-five days from the date of mailing. This waiting period allows anyone (including you) who disagrees with any aspect of this permit, to appeal the decision to the state Shorelines Hearings Board. You must wait for the conclusion of an appeal before you can begin the activities authorized by this permit.

The Shorelines Hearings Board will notify you by letter if they receive an appeal. We recommend, however, you contact the Shorelines Hearings Board before you begin permit activities to ensure no appeal has been received. They can be reached at (360) 459-6327 or <http://www.aho.wa.gov/Boards/SHB.asp>. If you want to appeal this decision, you can find appeal instructions (Chapter 461-08 WAC) at the Shorelines Hearings Board website above. They are also posted on the website of the Washington State Legislature at: <http://apps.leg.wa.gov/wac>. If you have any questions, please contact Barry Wenger at (360) 715-5220.

Sincerely,



Richard M. Grout, Manager

cc

Steve Sundin, Bellingham Planning & Development

cc BFO Reading File SPTS Project #626