



HEARING EXAMINER

IN THE MATTER OF THE APPLICATION
OF THE PORT OF EVERETT FOR
APPROVAL OF A SHORELINE SUB-
STANTIAL DEVELOPMENT PERMIT
"PORT GARDNER WHARF – PERMIT #2"

SMA #05-013

ORDER OF CLARIFICATION

On February 27, 2006, the Hearing Examiner of the City of Everett approved a Shoreline Substantial Development Permit (Shoreline Permit) for the Port Gardner Wharf - Permit #2. The Shoreline Permit was granted subject to conditions. Pursuant to the Rules of Procedure of the Hearing Examiner of the City of Everett, the Port of Everett (Applicant) filed a Motion for Minor Clarification of Factual Findings to Conform to the Record (Motion) on March 13, 2006. The Motion will be identified as exhibit #20 for the record. On March 14, 2006, the City submitted response to the Applicant's Motion. This document is admitted to the record as exhibit #21.

A review has been made of the Applicant's Motion. The following clarifications are made:

I.

Finding of Fact #4 of the February 27, 2006, decision read as follows:

4. In addition to the instant application, there have been three other permits issued for the development project. In 2004, a Shoreline Permit was issued to authorize replacement of a failing bulkhead along the south shoreline. In 2006, a Shoreline Permit was issued for the 12th Street Marina that is north of the subject property¹. That permit included improvements to the existing esplanade on the subject property. In late 2005, a Shoreline Permit was issued which authorized site preparation, utilities, and infrastructure to serve the site, and approved shoreline public access improvements, marina parking and support facilities, public parking and parking in support of the on-site activities, commercial buildings, and Craftsmen District improvements. (*exhibit 1, staff report; Russell testimony; Anderson testimony; Jimerson testimony*)

The Applicant indicated the following with regard to this finding:

- a. Line one should include the word "shoreline" in front of "permits" to reflect the types of permits used.

¹ The City staff report indicated that the Shoreline Permit for Phase I was issued in 2005. However, the City submitted a correction update memorandum and a revised staff report that reflects that this was not accurate. The correct date is 2006.

- b. In line three it is stated that "in 2006, a Shoreline Permit was issued for the 12th Street Marina that is north of the subject property". The Applicant indicated in its Motion that the correct date would be 2005.
- c. In line six it is stated that "in late 2005, a Shoreline Permit was issued which authorized site preparation, utilities, and infrastructure to serve the site". The Applicant indicated that the correct date should be 2006.

The City's response to the Motion indicated that the word "late" should be deleted.

A review has been made and it appears that the Applicant's requested minor changes are correct, as is the City's request to delete the word "late". Accordingly, Finding of Fact #4 is amended to read:

4. In addition to the instant application, there have been three other shoreline permits issued for the development project. In 2004, a Shoreline Permit was issued to authorize replacement of a failing bulkhead along the south shoreline. In 2005, a Shoreline Permit was issued for the 12th Street Marina that is north of the subject property². That permit included improvements to the existing esplanade on the subject property. In 2006, a Shoreline Permit was issued which authorized site preparation, utilities, and infrastructure to serve the site, and approved shoreline public access improvements, marina parking and support facilities, public parking and parking in support of the on-site activities, commercial buildings, and Craftsmen District improvements. (*exhibit 1, staff report; Russell testimony; Anderson testimony; Jimerson testimony*)

II.

The Applicant submitted that Finding of Fact #17, on line five, indicates that the plazas would be for "informal" recreational use rather than as described in Finding of Fact #17 as "formal" recreational use. The Applicant is correct and the City agrees. Accordingly, Finding of Fact #17 is amended to read as follows:

17. As part of Phase II, there would be public area improvements. The Applicant would construct an approximate 7,000 s.f. public plaza at the northwest corner of the site and an approximate 3,000 s.f. public plaza near the southwest corner of the site. Both plazas would have direct connections to the previously approved shoreline edge esplanade. These plazas would be for informal recreational use and would feature textured surfaces. They would be landscaped, have handicap access, and have benches and other amenities. (*exhibit 3, Applicant Summary; exhibit 10, drawings pages 4, 6; exhibit 14, Power Point presentation, slides 6-9*) Landscaping design guidelines and standards were adopted by the Everett City Council and are referenced in the Development Agreement. Landscaping of public areas would be consistent with the Urban character of the development. (*exhibit 6, PDO Zoning Resolution/Ordinance and Development Agreement*)

² The City staff report indicated that the Shoreline Permit for Phase I was issued in 2005. However, the City submitted a correction update memorandum and a revised staff report that reflects that this was not accurate. The correct date is 2006.

III.

In Finding of Fact #20, on lines five and seven, the structures are described as two-story buildings. The Applicant indicated that based on the record they should be described as two or three story buildings. The record has been reviewed, and the Applicant is correct in this statement. The City agrees with the Applicant. Accordingly, Finding of Fact #20 is amended to read as follows:

20. Phase II would also include construction of five mixed-use and hospitality buildings consisting of approximately 267,000 s.f. of floor area, including an approximate 32,000 s.f. two-story professional/retail building in block N2-1; an approximate 16,000 s.f. two-story professional/retail building in block N1-2; an approximate 32,000 s.f. two or three story hospitality retail space in block N1-1; an approximate 104,000 s.f. three-story hotel/restaurant/retail building in block N1-3 (for up to 168 guest rooms; and an approximate 83,000 two or three story hotel/restaurant/retail building in block S1-1 (for approximately 104 guest rooms). *(exhibit 3, Applicant Summary; exhibit 10 drawings, pages 2 & 4; exhibit 14, Power Point presentation, slides 5, 7, 9, 10)* No building would exceed 35' in height. *(Anderson testimony)*

IV.

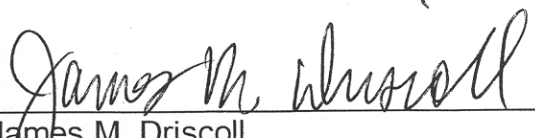
Condition #34 read as follows:

34. There is an existing City owned 18" combined sewer overflow and outfall in the 13th Street right-of-way. Portions of this facility will need to be replaced, upgraded and/or relocated due to the proposed development activity – all such work shall be at the expense of the Applicant. It shall be the Applicant's obligation to obtain the required permits relating to any relocation of the existing outfall.

The Applicant indicated in its Motion that a portion of the condition should be amended to include alternative funding that is "worked out with the City". The City did not object to this condition being amended. Accordingly, Condition #34 is amended to read as follows:

34. There is an existing City owned 18" combined sewer overflow and outfall in the 13th Street right-of-way. Portions of this facility will need to be replaced, upgraded and/or relocated due to the proposed development activity – all such work shall be at the expense of the Applicant or alternatively, as funding may be worked out with the City. It shall be the Applicant's obligation to obtain the required permits relating to any relocation of the existing outfall.

Done and dated this 17th day of March, 2006.



James M. Driscoll
Hearing Examiner