

**WHATCOM COUNTY HEARING EXAMINER**

RE: SHORELINE SUBSTANTIAL DEVELOPMENT ) SHR2013-0003  
Application for )  
 )  
*Whatcom County Parks and Recreation* ) FINDINGS OF FACT,  
*"Silver Lake Park - Playground"* ) CONCLUSIONS OF LAW,  
 ) AND DECISION  
 )

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**SUMMARY OF APPLICATION AND DECISION**

Application: The Applicant is requesting approval of a Shoreline Substantial Development Permit to replace existing playground equipment with new equipment that is compliant with current safety and accessibility requirements. The new playground will be located near the existing playground structures north of the day lodge and west of the swimming and picnic area at Silver Lake Park.

Decision: The requested permit is granted, 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.

I.

**PRELIMINARY INFORMATION**

Applicant: Whatcom County Parks and Recreation

Property Location/Address: Silver Lake Park  
9006 Silver Lake Road  
Maple Falls, WA 98266

Legal Description: Section 07, Township 40N, Range 06E, W.M.

Assessor's Parcel Number 400607 310220

Adjacent Water Body: Silver Lake

Shoreline Designation: Conservancy

Shoreline of Statewide Significance: No

Zoning: Rural Forestry

Comprehensive Plan: Forestry

Authorizing Ordinances: SMP 23.50 Applicability  
SMP 23.70 Administration

Applicable Shoreline Program Provisions

SMP 23.20	Goals and Objectives
SMP 23.30.09	Conservancy Shoreline Area Designation
SMP 23.30.02	Office Shoreline Map
SMP 23.60.02	Shoreline Substantial Development Permit Criteria
SMP 23.90	General Policies and Regulations
SMP 23.100.10	Recreation policies and Regulations
SMP 23.110	Definitions

SEPA Review: Exempt per WAC197-11-800

Legal Notices: Published – Notice of Public Hearing, March 28, 2013  
Posted – Notice of Public Hearing, March 28, 2013  
Mailed – Notice of Application, February 19, 2013  
Notice of Public Hearing, March 21, 2013

Hearing Date: April 10, 2013

Parties of Record:

Rod Lamb  
Whatcom County Parks & Recreation  
3373 Mount Baker Hwy  
Bellingham, WA 98226

Lyn Morgan-Hill  
Planning and Development Services

Exhibits:

- 1 Land Use Application with attachments  
1-1 Fee Responsibility  
1-2 Supplemental Application – Silver Lake

1-3 Guidelines for Finding Property Owners  
1-4 Distribution List for Notice of Application  
1-5 Comment Form Letter, February 13, 2013  
1-6 Determination of Complete Application, February 13, 2013  
1-7 Cover memo from Rod Lamb to Lyn Morgan-Hill, February 11, 2013

- 2 Staff Report, March 6, 2013
- 3 Certificate of Mailing, Notice of Application, February 19, 2013, with attached copy of mailing labels
- 4 Certificate of Mailing, Notice of Public Hearing, March 21, 2013
- 5 Certificate of Posting, Notice of Public Hearing, March 28, 2013
- 6 Legal Notice of Public Hearing, March 28, 2013
- 7 Aerial Site Photo
- 8 Site Plans, including Vicinity Map, Area Map, Site Photos, Site Drawings and Project Info

## II.

Whatcom County Department of Parks and Recreation seeks approval for a Shoreline Substantial Development Permit in order to replace the existing playground equipment at Silver Lake Park playground area with new equipment that is compliant with current safety and accessibility requirements.

## III.

The Applicant has indicated that the Staff Report is factually correct. The Applicant stated no objection to the Conditions of Approval recommended by Staff. There was no public comment on this matter at the hearing. The Findings of Fact and Conclusions of Law of the Shoreline Planner of the Land Use Services Division of Whatcom County Planning and Development Services, as set forth in the Staff Report, Exhibit No. 2, dated March 6, 2006, a copy of which is attached hereto, are adopted and incorporated herein by this reference.

## IV.

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 Whatcom County Shoreline Planner has recommended approval of the requested Shoreline Permit for the proposed replacement and upgrading of playground equipment at the Silver Lake Park playground area.

Findings of Fact and Conclusions of Law are set forth in the Staff Report, Exhibit No. 2, dated March 6, 2013. Subject to the Conditions of Approval recommended by Staff, the Hearing Examiner also concludes that the proposal is consistent with the Goals, Policies, and Purpose of the Shoreline Management Act, RCW 90.58, and with the Goals and Policies of the Whatcom County Shoreline Management Program. The Conclusions of Law adopted by Staff in the Staff Report are incorporated herein as Conclusions of Law.

### II.

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

A Shoreline Substantial Development Permit is hereby granted to Whatcom County Parks and Recreation for the replacement and upgrading of the existing playground equipment located in the playground area at Silver Lake Park, 9006 Silver Lake Road, Maple Falls, Washington, Washington. The permit is granted subject to the following conditions:

1. The proposed shoreline developments shall be consistent with the scope and site plans approved by this Shoreline Substantial Development Permit. Any changes to the proposed development may require additional review and approval by the Whatcom County Shoreline Administrator and/or Whatcom County Hearing Examiner.
2. Issuance of this shoreline permit does not release the Applicant from any other State, regional or Federal statutes or regulations applicable to the proposed development.
3. Land clearing, grading, filling, and alteration of natural drainage or other features should be limited to the minimum amount necessary to accommodate the approved development. Surfaces cleared of vegetation should be immediately re-vegetated with native or compatible plants.

4. Construction and/or demolition debris shall be wholly removed from the shoreline. Disposal shall occur in accordance with all applicable agency laws and regulations; including, but not limited to, Whatcom County Planning and Development Services, DOE, and Northwest Air Pollution Authority.
5. Best Management Practices (BMPs) for control of erosion and sedimentation shall be implemented during the development. At a minimum, such measures shall include installation of a site fence and covering all exposed soils with a minimum of two-inches of straw, wood mulch, etc., until the area of disturbance can be re-seeded. Such measures shall be implemented prior to ground disturbing activity and shall be maintained throughout the construction project.
6. Construction shall be commenced within two years, and authorization to conduct the construction shall terminate five years after the effective date of this shoreline permit as defined in 23.60.160.

### NOTICE

In addition to incurring civil liability under Shoreline Management Program Section 23.80.20 and RCW 90.58.210, pursuant to RCW 90.58.220 any person found to have willfully engaged in activities on shorelines of the state in violation of the provisions of the act or the Shoreline Management Program or other regulations adopted pursuant thereto shall be guilty of a gross misdemeanor and shall be punished by a fine of not less than \$25 or more than \$1,000 or by imprisonment in the county jail for not more than 90 days, or by both such fine and imprisonment; provided that the fine for the third and all subsequent violations in any five year period shall not be less than \$500 nor more than \$10,000. Any person who willfully violates any court order, regulatory order or injunction issued pursuant to the Shoreline Management Program shall be subject to a fine of not more than \$5,000, imprisonment in the county jail for not more than 90 days, or both.

### NOTICE OF ADMINISTRATIVE APPEAL PROCEDURES FROM FINAL DECISIONS OF THE WHATCOM COUNTY HEARING EXAMINER

This action of the Hearing Examiner is final. The following review procedure is available from this decision and may be taken by the applicant, any opponent of record, or any County department. Appeal to County Council. Within ten calendar days of the date of the written decision a written notice of appeal may be filed with, and all required filing fees paid to, the Whatcom County Council, Courthouse - 1st Floor, 311 Grand Avenue, Bellingham, WA 98225. The appeal notice must state either:

- 1) The specific error of law which is alleged, or
- 2) How the decision is clearly erroneous on the entire record.

Any party of record may request a closed record review of the Hearing Examiner's Decision, issued under SMP 23.60.15.H.4, by the County Council. Such an appeal shall be filed with the County Council on forms supplied by the County within ten (10) calendar days of the written decision. If appeal is made to the County Council, notice of appeal shall be provided to

all parties of record at least fifteen (15) days prior to consideration by the County Council. The Council shall meet to review the Hearing Examiner's decision within twenty-one (21) days of transmittal thereof, at which time it may approve or disapprove the application, or remand the matter to the Hearing Examiner.

More detailed information about appeal procedures is contained in the Official Zoning Ordinance at Section 20.92.600-.830 and Section 23.60.15.H. A copy of this document is available for review at the County Council Office. After an appeal has been filed and the Council Office has received the hearing record and transcript of the public hearing, the parties will be notified of the time and date to file written arguments.

DATED this 10<sup>th</sup> day of April 2013.

A handwritten signature in cursive script that reads "Michael Bobbink". The signature is written in black ink and is positioned above a horizontal line.

Michael Bobbink, Hearing Examiner