



**Shoreline Substantial Development Permit  
Notice of Additional Requirements (NOAR)**

TO: Vic Unick  
c/o Chris Fairbanks

FROM: Andrew Hicks - Shoreline Administrator

DATE: August 29, 2017

SUBJECT: SHR2017-00007  
Address: 4084 Sucia Dr / APN: 380117535540

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Staff has reviewed the information you submitted with the shoreline permit referenced above and has determined that additional information is required prior to approval and **prior** to submittal of a building permit application.

Please submit a copy of this letter and **all** of the required information listed below to Planning and Development Services (PDS) in one complete package within 180 days of this notice or your Shoreline Exemption application will expire. Once received by PDS, the information package will be re-reviewed in the order in which it was received.

**Wetlands and HCA (WCC 16.16)** – Erin Page - [EPage@co.whatcom.wa.us](mailto:EPage@co.whatcom.wa.us)

More information required for review:  Yes  No

Comments:

The above shoreline application has been routed to Erin Page for review with WCC 16.16.100 – Purpose and Intent, WCC 16.16.200 – Administrative Provisions, WCC 16.16.600 – Wetlands, and WCC 16.16.700 – Habitat Conservation Areas.

The following regulated critical areas are documented as potentially occurring in the vicinity and may be affected as a result of this proposal:

- Shoreline Habitat Conservation Areas (WCC 16.16.710(10)(b))
- Frequently Flooded Areas (WCC 16.16.410)
- Several ESA and PHS listed species
- Deep water habitats - Marine intertidal unconsolidated shore and subtidal unconsolidated bottom
- Wetlands (WCC 16.16.600) – Estuarine intertidal emergent wetland and unconsolidated shore

Under the above permit applications, the following documents were reviewed by Wetlands and Habitat Conservation Areas staff after submittal on 4/10/2017:

1. Drawings titled Sandy Point New Channel. Sheets 1-6. Dated July 26, 2016.

2. Project Narrative, authored by Chris Fairbanks, dated 1/17/2017
3. Sandy Point Harbor Entrance Maintenance Dredging Biological Assessment, cover dated July 30, 2016, authored by Chris Fairbanks

Staff has the following comments regarding the Project Narrative:

- A fueling station, staging and storage areas are described, but the location is not shown on the submitted site plan
- Impacts or size of storage of dredge material is not discussed
- Impacts of driftwood removal and storage is not addressed
- No scientifically adopted or peer reviewed protocol for eel grass transplantation is discussed
- No measures for impacts to forage fish is discussed

Section 11.0 of the Biological Assessment states, "The project will not substantially alter the existing environmental conditions or biological communities, will not alter substrate, and will not impact water quality". Critical areas staff do not think that this statement can be justified without baseline surveys of existing conditions of the current environment within the dredge area and surrounding vicinity. This baseline assessment should be conducted using best available survey techniques, including an adequate survey of inhabitants in the project vicinity, such as surf smelt and pacific herring areas, dungeness crab, aquatic macro and micro-invertebrates, as well as important terrestrial species, such as waterfowl and the streaked horn lark. These assessments shall be conducted by a biologist that has submitted and had qualifications approved by Whatcom County admin for the species or habitat in question.

**The following is required for further review:**

1. Pursuant to WCC 16.16.750, the following studies and surveys are requested to be performed by a biologist or specialist that meets our regulatory definition for each habitat or associated species:
  - o Eel grass delineation that follows the WDFW Eelgrass/Macroalgae Habitat Interim Survey Guidelines (<http://wdfw.wa.gov/publications/00714/wdfw00714.pdf>)
  - o Eel grass transplantation protocol
  - o Horned Lark Impact assessment
  - o Forage fish (surf smelt, pacific herring) survey (WDFW protocols) and impacts assessment
  - o Assessment of impact of driving heavy equipment on coastal fringe habitats that occur above the OHWM, if applicable. Project narrative describes heavy trucks taking dredge material off site.
2. Please provide the sediment sampling report that is referenced in both the project narrative as well as the Biological Assessment
3. Provide a site plan that will show exact locations and footprint of proposed
  - Sediment storage,
  - Ecology blocks for moorage of barge,
  - fueling station,
  - Equipment laydown area,
  - Proposed driftwood removal and replacement areas,
  - Proposed dock that is mentioned in the Biological Assessment
4. Turbidity assessment protocol for sampling during work times
5. BMP's for noise and turbidity
6. Spill containment and Protocol Plan

All requested environmental assessments should show that the proposal and submittal documents are in conformance with WCC 16.16.100 – Purpose and Intent, WCC 16.16.200

– Administrative Provisions, WCC 16.16.600 – Wetlands, and WCC 16.16.700 – Habitat Conservation Areas.

**Geohazards (WCC 16.16)** – Andy Wiser – [AWiser@co.whatcom.wa.us](mailto:AWiser@co.whatcom.wa.us)

More information required for review:  Yes  No

Comments:

The proposed channel dredging and associated channel stabilization measures are located in a coastal erosion hazard area regulated pursuant to WCC 16.16.310(C.5.b), .355, and .360. The proposed activities have the potential to impact sediment transport processes, which, in turn, may modify erosional and depositional processes and detrimentally impact existing development and habitat. An analysis of potential impacts to erosional and depositional processes as a result of the proposed development activities is required, and shall include mitigation measures based on technical analysis to offset potential impacts. The analysis shall conform to the standards of WCC 16.16.375, and shall address all requirements for development in erosion hazard areas outlined by WCC 16.16.355 and .360.

**Flood (WCC 17)** – Denise Doezema – [DDoezema@co.whatcom.wa.us](mailto:DDoezema@co.whatcom.wa.us)

More information required for review:  Yes  No

Comments:

The subject permit to dredge the entrance channel at Sandy Point has been reviewed for compliance with the Whatcom County Flood Damage Prevention Code (Title 17) and the associated requirements of the Endangered Species Act (ESA). According to the attached Digital Flood Insurance Rate Map (DFIRM) and submitted drawings the proposed project is located within a Special Flood Hazard Area (SFHA) or specifically Flood Zones VE with a Base Flood Elevation of 13.0 ft (NGVD29) and AE with a Base Flood Elevation of 8.0 feet (NGVD29).

Per Whatcom County Code, Flood Damage Prevention (Title 17), Section 17.12.030, Part 2, *“review all development permits to determine that all necessary permits have been obtained from those Federal, State or local government agencies from which prior approval is required”*. Accordingly, the project is required to obtain an HPA permit with the Washington State Dept. Fish and Wildlife (DFW), and a permit from the US Army Corps of Engineers. A copy of the approved permits must be submitted to the River and Flood Division prior to start of any work.

According to Biological Assessment prepared by Fairbanks Environmental Services on July 30, 2016, the project may affect, but will not likely adversely affect any listed species. ESA compliance will be determined the Army Corps of Engineers during their permit review.

Flood conditions are as follows:

- The project shall be constructed according to the submitted drawings and supporting technical documentation.
- A copy of the approved DFW permit must be submitted to the River and Flood Division prior to start of any work.
- A copy of the approved US Army Corps of Engineers permit must be submitted to the River and Flood Division prior to the start of any work.

We have determined that the project satisfies the requirements of Title 17 and the ESA provided that all above referenced conditions are met and the project is constructed in accordance with the submitted plans/drawings and supporting technical documentation.

**Shorelines (Title 23)** – Andrew Hicks – [AHicks@co.whatcom.wa.us](mailto:AHicks@co.whatcom.wa.us)

More information required for review:  Yes     No

Comments:

The application materials indicate that the method of dredging the entrance to Sandy Point Harbor will use large track-mounted excavators from the northeastern shore. However, during previous discussions on the topic the applicant suggested the use of a barge-based method for dredging. Pursuant to WCC 23.90.030 – Mitigation Sequencing, the applicant shall minimize adverse impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology and engineering, or by taking affirmative steps to avoid or reduce adverse impacts. A barge-based method would cause less adverse impacts than a land-based approach. Please provide a modified project narrative that either details a viable barge-based method of dredging or an analysis that clearly demonstrates how a land-based approach satisfies the requirements of WCC 23.90.030.

The application materials state that the dredging spoils will be temporarily stockpiled landward of the Mean Higher High Water mark and they will be moved landward as dredging progresses. However, the proposed location for the spoils is not identified on the site plan. Furthermore, during previous discussions related to a barge-based dredging method, the applicant indicated that the spoils could be temporarily stored on a barge and shipped off-site. Please revise the project narrative to reflect how the dredging spoils will be handled. If it is still the intent to store spoils in the adjacent upland, identify the areas of storage on the site plan and provide a rationale, consistent with the standards of WCC 23.90.030, for why direct placement of the spoils onto a barge is not a viable option.

The submitted site plan identifies a new/expanded rip rap jetty structure on the north side of the entrance to Sandy Point Harbor. Pursuant to WCC 23.100.130.B.1.g, jetties and breakwaters are prohibited except as an integral component of a professionally designed harbor, marina, or port. Where permitted, floating, portable or submerged breakwater structures, or small discontinuous structures, are preferred where physical conditions make such alternatives with less impact feasible. Defense works that substantially reduce or block littoral drift and cause erosion of downdrift shores, are not allowed unless an adequate long-term professionally engineered beach nourishment program is established and maintained. Please revise the project narrative to provide an alternatives analysis for the proposed new/expanded jetty. The analysis should demonstrate how the specific design complies with the standards referenced above and substantiate how the benefits of the structure would outweigh resource losses. A mitigation plan shall be submitted to show how the impacts of any new/expanded jetty will be offset and provide no net loss of shoreline ecological function or process. Additionally, please submit a professionally engineered beach nourishment plan.

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Please wait to submit your building permit application until you have received approval via a Shoreline Substantial Development permit.

For specific requirement questions, please contact the applicable NR staff person listed above by email or at (360) 778-5900.

**Please note:** This document and attachments may include appealable decisions pursuant to the applicable regulations. Please contact the reviewing staff person for additional information and associated time limitations.