



KITSAP COUNTY DEPARTMENT OF COMMUNITY DEVELOPMENT

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ALL SECURE SELF STORAGE SEPA APPEAL RECOMMENDATION TO THE HEARING EXAMINER

HE Remand Order and Staff Supplemental Recommendation to the Hearing Examiner

September 8 2016, Continuation for SEPA Appeal 07 46995

Original Hearing Date: June 14, 2007 **Appeal Submittal Date:** May 7, 2007

Continuation Hearing Date: September 8, 2016

Project Name: All Secure Self Storage

Type of Action: Appeal of SEPA Determination

Summary of Appeals:

Eugene Brennan submitted a SEPA appeal as the contact representative for 16 appellant parties on May 7, 2007. Specifically, appellants contest the Mitigated Determination of Non-significance (MDNS) issued for All Secure Self Storage on April 17, 2007.

Land Use File No.: 05 27232

Appeal Permit Number: 07 46995

Assessors Account #: 362501-2-002-2008

Project Location:

The subject parcel is located at 6014 State Highway 303, in East Bremerton.

Appellant:

Eugene Brennan, designated contact representative for 16 appellant parties.

Applicant and Parcel Owner:

Reinout van Beynum
3242 NE McWilliams Road, Bremerton, WA 98311

Project Engineer: Team 4 Engineering 5819 NE Minder Road Poulsbo, WA 98370

DCD Staff Planner: Steve Heacock at (360) 337-5777

Original SEPA Appeal Summary: (See Exhibit 93)

Kitsap County DCD issued a mitigated Determination of Non-significance (MDNS) for All Secure Self Storage on April 17, 2007. The SEPA determination identified impacts to and mitigation for loss of on-site wetland areas, pursuant to Kitsap County Code (KCC) 19.200.250. An appeal of the SEPA determination was submitted by Eugene Brennan, designated contact representative for 16 appellant parties on May 7, 2007.

Summary of the continuation:

The All Secure Storage Site Plan Review SEPA MDNS was issued on April 17, 2007, and was subsequently appealed by the Illahee Greenbelt Community (IGC) on May 7, 2007. A SEPA appeal Hearing was held on June 14, 2007, resulting in an open hearing record to allow a combined site visit between County and the affected parties. The applicant asked for an extension of that on-site meeting to provide additional information regarding the matter. An on-site meeting finally occurred in November of 2008 with Department of Ecology, representatives of the IGC and applicant’s consultants. Issues were raised at this meeting that prompted the Hearing Examiner to keep the record open , creating a continuation of the appeal and the Site Plan Review decision.

Since then, significant new work by the applicant’s consultants and the Army Corps, and review by County staff provides the needed documentation to conclude the SEPA appeal. **This hearing is to address the SEPA appeal continuation before the Kitsap County Hearing Examiner.**

Current status: After site visit in November of 2008, there were a series of meetings, site plan modifications, report revisions and discussions about the off-site mitigation location. Meeting and correspondence occurred between DCD staff, Parks employees, the applicant and appellants. See the All Secure timeline (Exhibit 126) for a complete summary of those details and findings.

On April 18 of 2016, the applicant asked for a meeting with County staff to discuss the project, to date. At that meeting, a new wetland delineation and mitigation report were provided. A draft revised site plan was also provided and the details about the project were discussed in relation to the SEPA appeal permit 07 446995 and the Site Plan Review 05 27232. On May 17, 2016, the applicant provided all of the revised information to DCD staff for review.

The following is a summary of the related original issues raised by the appellants, and the subsequent revised documents, addressed by the applicants in relation to the remand (answered by staff in **bold**).

Issues raised by the appellants:	Relevant Code:	Department Response and recent Department Response (Bold):
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<p>1. <i>The County issued logging permit that resulted in the logging of the wetlands and wetland buffers on the property.</i></p>	<p><i>KCC Title 18 Environment</i></p>	<p>Kitsap County did not issue a logging (Forest Practices) permit for vegetation removal on the subject parcel. The type of clearing did not fall under the “Forest Practice” permit requirement pursuant to the standards at KCC Title 18.</p> <p>This action is substantiated.</p>
<p>2. <i>The Environmental Checklist submitted by Team 4 Engineering gave an evasive answer regarding the presence of streams or wetlands in the site vicinity. As a result, the checklist provided was not adequate to provide the department enough information to make an accurate determination of the project’s impacts.</i></p>	<p><i>WAC 197-11-330 Threshold Determination Process</i></p>	<p>The threshold determination process requires review of the Environmental Checklist, in combination with other submittals, such as the wetland report, prior to making a SEPA determination. The applicant’s wetland consultant believed that there were not regulated wetlands prior to site disturbance, leading staff to conclude that the applicant did not intentionally withhold information regarding such features.</p> <p>A revised SEPA checklist has been provided by the applicants wetland consultant Robbyn Myers, dated June 28, 2016</p>
<p>3. <i>Impacts from site clearing, including the wetland and buffer, were not considered as part of the total cumulative impact analysis under the SEPA review.</i></p>	<p><i>KCC 19.200.250¹ Wetland Mitigation Requirements</i></p>	<p>The SEPA determination was not issued until impacts from site clearing, including the wetland and buffer, could be reviewed and approved by the County’s wetland specialist. The SEPA review was specifically focused on this issue. See Compensatory Wetland Mitigation Plan (Exhibit 73).</p> <p>Addressed in the revised SEPA checklist, revised wetland and mitigation report, and JARPA.</p>
<p>4. <i>The wetland specialists did not consider connectivity to other streams and wetlands in</i></p>	<p><i>KCC 19.200.215 Reference to</i></p>	<p>The Wetland Delineation and Analysis Report identifies four wetlands within 0.5 miles of the subject parcel. The</p>

1. This project is considered vested to the 2005 Critical Areas Ordinance and continues to be reviewed under it; however, the ability for off-site mitigation for loss of this type of wetland is allowed under the current code as well.

<p><i>the area when rating the wetland. There are streams off-site. The proposal will “adversely affect environmentally sensitive of special areas” such as loss or destruction of scientific and cultural resources, parks, wetlands or wilderness.</i></p>	<p><i>Washington State Wetland Rating System, Western Washington, 2nd Edition.</i></p>	<p>subject wetland does extend off-site, and the wetland rating was based on scores for water quality, hydrological and habitat functions.</p> <p>A new (and revised) wetland delineation report, data sheets, and associated mitigation report have been submitted. The JARPA discusses the off-site mitigation in detail.</p>
<p><i>5. The MDNS was signed on April 30, 2007 and the SEPA appeal deadline was noted as May 7, 2007. WAC 197-11-340 requires a 14-day comment period.</i></p>	<p>WAC 197-11-340</p>	<p>The SEPA determination was signed on April 17, 2007, with a two-week comment period ending May 1, 2007. The comment and appeal period was further extended to May 7, 2007 at appellants’ request. Substantiated.</p>
<p><i>6. The proximity of the project to Illahee Preserve was not noted or acknowledged. The close proximity of streams and wetlands in the preserve need to be assessed with regard to probable environmental impacts to the preserve.</i></p>	<p>NA</p>	<p>The wetland report did not determine that there would be direct impacts to streams or wetlands in the Illahee Preserve. However, it is assumed that wetland fill will displace some of the existing stormwater function the wetland provides. The level impact was not determined to be more than moderate.</p> <p>Noted in the provided wetland report, mitigation report and JARPA</p>
<p><i>7. The determination by the Department that the wetland and buffer can be essentially dug out and replaced by mitigating off site and out of kind. The activity will have a significant impact on the wetland, and the impact was not adequately reviewed by the Department in accordance with SEPA. The determination needs to be reevaluated in light of the close proximity of adjacent streams and wetland</i></p>	<p>KCC 19.200.250 Wetland Mitigation Requirements</p>	<p>Impacts related to wetland fill and off-site mitigation were extensively reviewed by the County’s wetland specialist prior to issuance of the SEPA determination (see Compensatory Mitigation Plan, Exhibit 73). This review was conducted pursuant to KCC 19.200.250.</p> <p>Such activity will have an impact on the wetland, however that impact was not determined to be “significant” as defined under the SEPA rules. The</p>

<p>areas.</p>		<p>impact and off-site compensatory mitigation is authorized pursuant to KCC 19.200.250.E.</p> <p>County environmental planner Heacock visited the site with the applicant wetland consultant in the spring of 2015, subsequent to a site visit from Jerry Gregory with the USACOE. Further, the wetland line was examined and the adjacent parks property was examined for exploration and discussions about mitigation on that site. As the site is relatively pristine, mitigation directly adjacent to the project site was deemed infeasible. A site visit is planned for Tuesday September 6th with all interested parties to the appeal. The wetland consultant, County staff and expert witnesses in attendance will address the results of the meeting with Washington State Department of Ecology wetland review staff for concurrence with the findings and make these results available at the September 8th hearing.</p>
<p><i>8. Kitsap County erroneously determined that the proposed project does not have a probable significant adverse impact on the environment, and that environmental damages can be mitigated off-site and out-of-kind.</i></p>	<p><i>WAC 197-11-330 Threshold Determination Process</i></p> <p><i>KCC 19.200.250.E Off-Site Compensatory Mitigation</i></p>	<p>The determination is not in error. Kitsap County made the determination in compliance with the SEPA rules for review of adverse impacts and mitigating measures to address such impacts. Such mitigation is authorized pursuant to KCC 19.200.250.E.</p> <p>Substantiated upon further review of project documents.</p>

Conclusion: After review of all previous materials, the original SEPA appeal report and recommendation to the Hearing Examiner, and upon review of the remanded supplemental information provided by the applicant, we provide the following conclusion:

The MDNS was issued after full consideration of environmental impacts, as specified in the SEPA threshold determination process requirements found at WAC 197-11-330. SEPA requires a determination of significance only if there are “significant” adverse environmental impacts. “Significant” is defined as “likely to have more than a moderate adverse impact on the environment” (WAC 197-11-794). When determining the likelihood of probable significant adverse impacts, the Responsible Official must first consider mitigation measures that will be implemented through development regulations or other existing environmental rules (WAC 197-11-330(1)(b) and (c)). In this case, KCC 19.200.250 permits certain wetland impacts if specific criteria are met to mitigate such impacts.

Upon thorough exploration of available options within the Steele Creek watershed, and additional review of mitigation options by the applicant and County staff post-remand, the applicant has complied with the mitigation criteria. Such mitigation is specified in the SEPA MDNS, and has been reviewed by staff under the revised Wetland Mitigation Plan (Exhibit 124).

Finally, the wetland consultant and the applicant have agreed that required permit interaction with the Army Corps of Engineers and Department of Ecology wetland division shall become conditions of project approval and shall be submitted at the time of application of a required Site Development Activity Permit.

Recommendation:

Based on the above analysis, staff recommends that the SEPA appeal be **denied**.

cc: Appellants
Interested parties
DCD File
Hearing Examiner
Clerk of the Hearing Examiner
Environmental Planner: Steve Heacock
Land Use Planner: Jeff N. Smith
Suquamish Tribe, Alison O’Sullivan
Washington Department of Fish and Wildlife, Brittany Gordon
Washington Department of Ecology, Paul Anderson
USACOE, Jerry Gregory