

January 8, 1997

OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON

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REPORT AND RECOMMENDATION TO THE KING COUNTY COUNCIL.

SUBJECT: Department of Development and Environmental Services File No. L96UU001
Proposed Ordinance No. 96-967

VASHON SEWER DISTRICT
Special Use Permit Application for Regional Land Use

Location: South side of SW 171st Street, 900 feet east of Vashon Highway SW

Applicant/Owner: Richard Ames, Plant Manager
Vashon Sewer District
PO Box 930
Vashon, WA 98070
(206) 463-9219

SUMMARY OF RECOMMENDATIONS:

Division's Preliminary:	Approve, subject to conditions
Division's Final:	Approve, subject to conditions (modified)
Examiner:	Approve, subject to conditions (modified)

PRELIMINARY MATTERS:

Application or petition submitted:	June 12, 1996
Notice of complete application:	July 10, 1996

EXAMINER PROCEEDINGS:

Hearing Opened:	December 19, 1996
Hearing Closed:	January 6, 1997

Participants at the proceedings and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the Office of the King County Hearing Examiner.

ISSUES ADDRESSED:

- Land use compatibility
- Noise
- Comprehensive Plan compliance

FINDINGS, CONCLUSIONS & RECOMMENDATION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. Proposal. The Vashon Sewer District (the "Applicant"), represented by Mary Murphy, consultant, proposes to upgrade its existing 25-year-old waste treatment facility by constructing, in two phases, a new secondary wastewater treatment facility plant on an easterly adjacent parcel. A narrow one-half-acre parcel divides the existing and proposed facilities. In the long term, the older facility would be rehabilitated, thereby providing for optional use during high flow periods, increased capacity demand, or emergencies. Cross-section and site plan drawings which illustrate the proposed special use comprise Attachment 3 to the December 19, 1996 Preliminary Report to the King County Hearing Examiner prepared by the Department of Development and Environmental Services (the "Department", or "DDES"), Exhibit No. 2. A copy of that report will be attached to those copies of this report which are presented to the Metropolitan King County Council for adoption of Proposed Ordinance No. 96-967.
2. SEPA. The threshold determination on this matter was entered by the Vashon Sewer District as lead agency on February 21, 1996. No person appealed that determination. All required environmental documents are incorporated in this review.
3. Department Report Corrections. The Department makes these changes to its December 19, 1996 Report to the King County Hearing Examiner:
 - a. Project Description, page 1.
 - Nine, not eight, parking stalls will be provided.
 - The existing plant will not be discontinued. Rather, it will be used as a supplementary facility in various situations, such as whenever a breakdown in the proposed new facility occurs or when peak flow events require.
 - b. Project Purpose, page 3. Not all three of the severe health hazard area ULIDs have been formed. Formation of the "Bunker Trail" area is complete. Presently, two others continue to work on the necessary formation requirements.
 - c. Noise, page 7. The statement that the existing treatment plant contains generators that operate 24 hours per day is erroneous. Instead, the existing treatment plant contains generators that operate four hours per month and as needed during emergency periods. The Department's report at page 7 also erroneously indicates that the generator noise will emanate from the new facility 24 hours a day. Instead, the generator for the new facility will operate only four hours per month or as needed during emergencies.
4. Department Recommendation. The Department recommends granting special use permit approval for the proposed development, subject to eight conditions to be enforced upon building permit issuance. Those conditions are set forth on pages 17 and 18 of the Department's Report, EXCEPT for a change to Recommended Condition No. 7. As first recommended, an "acoustical noise study" would be required "in the event the Hearing Examiner and/or King County Council determines that it is necessary". As revised in the Department's final (oral) recommendation, the noise study would be required at the time of commercial building permit application. In addition, the Department's revised Recommended Condition No. 7 would require the noise study to address the joint or combined operation of both treatment facilities. Finally, instead of requiring noise study review and approval by "Curt Horner" of the Health Department, the Department recommends review and approval by "Environmental Health Services Division of the Seattle-King County Department of Public Health".
5. Applicant Position. The Applicant agrees with the clarifications of fact described in Finding No. 3, above. Further, the Applicant accepts the Department's final recommendation as described in Finding No. 4, above.
6. Administrative Continuance. The required Affidavit of Posting and the required Affidavit of Publication, evidence that public notice has occurred consistent with County requirements for ordinance adoption and for Type 4 land use actions, were not available at the December 19, 1996 public hearing. For that reason, the Examiner continued the public hearing on this matter for two weeks or until receipt of these documents, whichever date occurs earlier. The hearing record finally closed on January 6, 1997.

7. Department Report Adopted. Except as noted above, the facts and analysis contained in the Land Use Services Division Preliminary Report dated December 19, 1996 are correct and are incorporated here by reference. A copy of the Land Use Services Division report will be attached to those copies of the examiner's report which are submitted to the King County Council.

CONCLUSIONS:

1. As regulated by the conditions contained in the recommendation below, the characteristics of this Special Use, a new secondary wastewater treatment facility, will not be unreasonably incompatible with the uses in the area, either now or in the future.
2. The proposed development will not materially endanger the health, safety and welfare of the area.
3. The proposed development, with two to four employees, will not generate traffic, either pedestrian or vehicular, which would be hazardous or conflict with existing and future traffic in the area.
4. The scope of the development will not hinder or discourage appropriate development or use of neighboring properties, provided that the recommended conditions are enacted by the Council, enforced by the Department, and implemented by Vashon Sewer District.
5. The use of the subject property as a wastewater treatment facility does not conflict with the policies of the King County Comprehensive Plan, with the basic purposes of KCC Title 21A, with the (Metropolitan King County Council-approved) Vashon Sewer District Comprehensive Sewer Plan, with the Seattle-King County Department of Public Health Vashon Island Health Hazard Areas Facilities Plan, or with the new Vashon Town Plan and Area Zoning adopted by the King County Council in July of 1996. In fact, the proposed development will complement, support and enhance the implementation of these relevant plans and policies which are discussed in detail on pages 1 through 16 of the Department's Report (Exhibit No. 2, which is attached to those copies of this Examiner's Report which are submitted to the members of the Metropolitan King County Council).
6. An adequate review of the environmental alternatives and consequences of the proposed development has occurred pursuant to WAC 197-11, considering the entire record in this matter.

RECOMMENDATION:

ADOPT proposed Ordinance No. 96-967; APPROVE the Special Use Permit Application filed by Vashon Sewer District, designated DDES File No. L96UU001, as described in the Department's Report to the Hearing Examiner dated December 19, 1996 (Exhibit No. 2), as amended by this Report (see, particularly, Finding No. 3, above), SUBJECT to the following conditions:

1. Site development shall be in accordance with the plans received July 12, 1996, as partially modified by revised plans received September 19, 1996, and by these conditions of approval.
2. As undisturbed, 20-foot-wide buffer shall be maintained along the property lines in the southeast corner of the subject site in the vicinity of the proposed office building and parking lot to allow for the retention of existing vegetation. This area shall be supplemented, as needed, with additional plantings to result in a Type I or equivalent visual barrier, pursuant to the landscaping provisions of KCC 21A.16.040(A). A detailed landscape plan and appropriate bond shall be established under the commercial building permit. Furthermore, frontage landscaping improvements shall be provided along SW 171st Street, together with the 8-foot-wide shoulder required in Condition No. 4, below. The landscaping shall consist of a Type II filtered screen, pursuant to KCC 21A.16.050(B). The detailed landscape plan shall include a footpath or "trail" design for final review and approval under the subsequent building permit.
3. The 8-foot-high perimeter security fence shall setback 5 feet from interior and 10 feet from street property lines.
4. An 8-foot-wide shoulder shall be constructed along the frontage of SW 171st Street.

Furthermore, an entering sight distance of 620 feet is required from the existing right-of-way. If this is not possible, the applicant is required to obtain a sight-line easement from the neighboring property owner to meet this County road standard, or satisfy such alternative mitigating requirements as may be established by the County Road Engineer.

5. The drainage requirements outlined by the Department's drainage engineer in Section II.A(7) of the Staff Report apply to the subject proposal.
6. The applicant shall obtain a valid Certificate of Water Availability prior to building permit issuance.
7. The proposal shall adhere to KCC 12.88 with respect to permissible maximum sound levels. At the time of commercial building permit application, the applicant shall prepare an acoustical noise study for the review and approval by the Environmental Health Services Division of the Seattle-King County Department of Public Health. In addition to any study guidelines issued by EHS, the study shall analyze the noise generation which may result from the joint or combined operation of both the old and new wastewater treatment facilities and/or generators. Results of the study shall be used to establish, as necessary, conditions such as a monitoring program to mitigate identified noise impacts.
8. Any conditions of the grading and commercial building permits shall be considered conditions of this special use permit.

RECOMMENDED this 8th day of January, 1997.

R. S. Titus, Deputy
King County Hearing Examiner

TRANSMITTED this 8th day of January, 1997, to the following parties and interested persons:

Richard Ames	Washington State Dept. Ecology
Larry Granat	Leslie Groce
King Conservation District	King Co. Water District #19
Russ Ladley	Mary Murphy
Kimberly Ordon	Snoqualmie Tribe
Vashon-Maury Island Community Council	

Betty Capehart, DDES/Land Use Services Division
Ken Grubbs, DDES/Land Use Services Division
Jon Hansen, DDES/Land Use Services Division
Jim Henrikson, Seattle-King County Health Dept.
Wilsey Hamilton, DDES/Building Services Division
Nancy Hopkins, DDES/Land Use Services Division
Jim Henrikson, King County Environmental Health Division
Curt Horner, Seattle-King County Health Dept.
Aileen McManus, DDES/Building Services Division
Mark Mitchell, DDES/Land Use Services Division
Lisa Pringle, DDES/Land Use Services Division
Gary Samek, King County Dept. of Transportation

NOTICE OF RIGHT TO APPEAL
AND ADDITIONAL ACTION REQUIRED

In order to appeal the recommendation of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$125.00 (check payable to King County Office of Finance) on or before January 22, 1997. If a notice of appeal is filed, the original and 6 copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council on or before January 29, 1997. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 403, King County Courthouse, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the Clerk of the Council shall place a proposed ordinance which implements the Examiner's recommended action on the agenda of the next available Council meeting. At that meeting, the Council may adopt the Examiner's recommendation, may defer action, may refer the matter to a Council committee, or may remand to the Examiner for further hearing or further consideration.

Action of the Council Final. The action of the Council approving or adopting a recommendation of the Examiner shall be final and conclusive unless a proceeding for review pursuant to the Land Use Petition Act is commenced by filing a land use petition in the Superior Court for King County and serving all necessary parties within twenty-one (21) days of the date on which the Council passes an ordinance acting on this matter.

MINUTES OF THE DECEMBER 19, 1996, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L96UU001 - VASHON SEWER DISTRICT SPECIAL USE PERMIT APPLICATION:

R. S. Titus was the Hearing Examiner in this matter. Participat-ing at the hearing were Mary Murphy, John Wilson, and Nancy Hopkins/DDES-LUSD-Site Plan Review Section.

The following exhibits were offered and entered into the record on December 19, 1996:

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| Exhibit No. 1 | Department of Development and Environmental Services Preliminary Staff Report, prepared for the December 19, 1996 public hearing on File No. L96UU001 - Vashon Sewer District |
| Exhibit No. 2 | Special Use Permit Application dated February 2, 1996/dated received June 12, 1996 |
| Exhibit No. 3 | SEPA Determination of Nonsignificance and Publication Summary, dated February 21, 1996 |
| Exhibit No. 4 | Notice of Application (type 4), dated mailed July 19, 1996 |
| Exhibit No. 5 | Affidavit of Newspaper Publication/The Seattle Times, publication date July 24, 1996, dated received August 12, 1996, and Affidavit of Newspaper Publication/Vashon Beachcomber Press, publication date July 24, 1996, dated received August 13, 1996 |
| Exhibit No. 6 | Notice of Recommendation and Hearing (type 4) for the December 19, 1996 public hearing, dated mailed November 13, 1996 |
| Exhibit No. 7 | Affidavit of Posting for Notice of Hearing, dated posted November 11, 1996 |
| Exhibit No. 8 | Introductory Ordinance for File No. L96UU001, dated November 12, 1996, Proposed Ordinance No. 96-967 |
| Exhibit No. 9 | Letter, dated September 17, 1996, from Mary Hanna Murphy, to Nancy Hopkins, re: additional information on application No. L96UU001 |
| Exhibit No. 10 | Memorandum, dated December 3, 1996, from Curt Horner/Seattle King County Department of Public Health, to Nancy Hopkins/DDES-LUSD, re: noise |
| Exhibit No. 11 | DDES Special Use Application File No. L96UU001, incorporated by reference |
| Exhibit No. 12 | Vashon Sewer District "Vashon Island Wastewater Treatment Upgrade Announcement", used as notes for testimony by Mary Hanna Murphy |

The following exhibits were offered and entered into the record on January 6, 1997:

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| Exhibit No. 13 | Affidavit of Posting, dated November 11, 1996, dated received January 2, 1996 |
| Exhibit No. 14 | Affidavit of Newspaper Publication/Vashon Beachcomber Press, publication date December 4, 1996 |

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