

Lee McEnery

From: Lee McEnery
Sent: Wednesday, August 07, 2013 2:54 PM
To: 'Joe Brogan'
Subject: RE: Runstad Hearing

Hi

I will be glad to postpone the hearing, if you like. It might work best to not set a new date until the remaining items are completed. But if you want to set a date anyway, I can also do that. Hearings are generally held the second Wednesday of the month. You decide what you want.

It has become common that Paul Anderson comments on and visits bulkhead sites to verify the OHWM. He has done that for a while now and it can be helpful in many cases.

As for the FEMA information, that is admittedly a newer requirement, or at least one that we are just beginning to implement for proposals in locations such as this.

I have started summarizing the proposal (writing a staff report) and have a few questions you may be able to answer.
-Has DFW required beach nourishment as part of the HPA? If so, how much, how placed, etc. (Was an HPA issued?)
-If the site plan shows the areas that were subject to erosion, it will be easier to determine the proposal's direct relation to the erosion.

-There are 3 different site plans but none show all of the existing development or the distance from it to the bulkhead (driveways, new house, new bulkhead, old bulkhead, other developments).

-Neither of the geotechnical reports state what development is threatened or what is being protected by the bulkhead.

-The 2010 geotechnical report for the "beach house" development (including the driveway) concluded that with certain drainage improvements the area was stable, which is contrary to the two reports submitted with this bulkhead application.

-The application materials (SEPA checklist) mentions a habitat study for the beach but I don't see it in the file.

-Is there a drainage plan specifically for the bulkhead?

Thanks

Lee

From: Joe Brogan [<mailto:Broj@foster.com>]
Sent: Wednesday, August 07, 2013 1:08 PM
To: Lee McEnery
Cc: Amy Vira; Randall Gaylord
Subject: Runstad Hearing

RE: SSDP Application PSJ000-12-0009

Lee,

I informed the County Prosecutor's Office yesterday that the Runstads are requesting that the hearing be postponed in order for them to obtain the necessary FEMA-related Base Flood Elevation Determination and complete the associated Fisheries Impact Assessment. Although it appears that the County has not required this of all applicants in the past, the Runstads are prepared to obtain whatever approvals are required by law. Although you have not indicated such, I infer that these requirements must be met before the hearing takes place.

Secondly, the Runstads are aware that the County and Ecology are in contact regarding Ecology's comment that it must "field verify" the location of the Ordinary High Water Mark ("OHWM") before the County acts on this application. As you are aware, the Runstads submitted a survey which explains the surveyor's efforts to locate the OHWM and his reliance on the MMHW line, as dictated by the WAC. I understood from Paul Anderson, Ecology Wetlands Specialist, that he believes he has jurisdiction to field verify and dictate the location of the OHWM for a local SSDP application. I am unaware of any such action by Ecology elsewhere in the state, nor am I aware of Mr. Anderson's authority to do so. Nonetheless, the Runstads are preparing additional information addressing this issue and will be submitting that information to the County shortly.

Accordingly, I request that the County reschedule the hearing until such time as the applicant has sufficient time to obtain information from FEMA and prepare the Fisheries Impact Assessment that may be required as a result of the BFE determination.

Please let me know what alternative dates are available and what additional notice the applicant will be required to post in light of a rescheduled hearing date.

Best Regards, Joe Brogan

Joseph (Joe) A. Brogan

Attorney

FOSTER PEPPER PLLC

1111 Third Avenue, Suite 3400

Seattle, WA 98101-3299

Phone: 206-447-6407

Fax: 206-749-1935

brogj@foster.com

www.foster.com



PRIVILEGED AND CONFIDENTIAL

This e-mail is from the law firm of Foster Pepper PLLC ("FP") and is intended solely for the use of the addressee(s). Please maintain this email and its contents in confidence to preserve the privileges protecting its confidentiality. If you have received this email in error, please immediately notify the Sender and delete the e-mail. Do not copy it or disclose it to anyone. If you are not a FP client, do not construe this e-mail to make you a client unless it so states and disclose nothing to FP in reply that you expect it to hold in confidence.
