



Pierce County

Office of the Pierce County Hearing Examiner

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Tacoma, Washington 98405
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ENVIRONMENTAL FILE

GEODUK CULTURE

STEPHEN K. CAUSSEAU, J
Pierce County Hearing Examir

December 28, 2000

Taylor Resources, Inc.
Attn: Diane Cooper
SE 130 Lynch Road
Shelton, WA 98584

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RE: SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT: CASE NO. SD22-00

Dear Applicant:

Transmitted herewith is the Report and Decision of the Hearing Examiner approving your request for the above-referenced **SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT: Case No. SD22-00.**

A copy of this action will be forwarded to the State Department of Ecology and the State Attorney General's Office for their review. The Department of Ecology will notify you of the expiration of the review period or of any further considerations.

The Shoreline Management Act requires that you may not begin development prior to the expiration of the Department of Ecology's review period.

Very truly yours,

STEPHEN K. CAUSSEAU, JR.
Hearing Examiner

SKC/jmc

- cc: Pierce County Planning
- ~~Pierce County Development Engineering~~
- Pierce County Building Division
- Pierce County Public Works and Utilities
- Tacoma Pierce County Health Dept.
- Fire Prevention Bureau
- Pierce County Parks and Recreation
- Department of Ecology
- Attorney General's Office
- Pierce County Council



OFFICE OF THE HEARING EXAMINER

PIERCE COUNTY

REPORT AND DECISION

CASE NO.: **SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT:**
Case No. SD22-00 (Geoduck Culture)

OWNER: North Bay Partnership
Attn: M. Leslie Foss, Managing Partner
219 East View Ridge Drive
Everett, Washington 98203

APPLICANT: Taylor Resources, Inc.
Attn: Diane Cooper
SE 130 Lynch Road
Shelton, Washington 98584

SUMMARY OF REQUEST: Applicant requests a Shoreline Substantial Development Permit to cultivate the intertidal zone of private tidelands for the commercial production of geoduck clams along the east shore of Case Inlet/North Bay in the Conservancy and Natural Shoreline Environments and Rural 10 (R10) zone classification. The site is located on the east shore of Case Inlet/North Bay, on private tidelands, located immediately north of Joemma Beach State Park, in Sections 8, 9 and 16, T20N, R1W, W.M., in Council District #7.

SUMMARY OF DECISION:

Request granted, subject to conditions.

PUBLIC HEARING:

After reviewing Planning and Land Services Report and examining available information on file with the application, the Examiner conducted a public hearing on the request as follows:

The hearing was opened on December 6, 2000, at 11:53 a.m.

Parties wishing to testify were sworn in by the Examiner.

The following exhibits were submitted and made a part of the record as follows:

EXHIBIT "1" - Planning and Land Services Staff Report and Attachments

TY BOOTH appeared and presented the Planning Division Staff Report. The Environmental Official issued a DNS and no appeals were filed. The Department of Fish and Wildlife has also expressed no concerns with the project. The applicant has leased private tidelands for the purpose of cultivating geoducks on empty beaches along Case Inlet. They will plant four baby clams in PVC pipes and five years hence will harvest the clams with water jets and sell them in Asia. They will then repeat the process. The project requires a shoreline substantial development permit. The aquaculture policies are set forth in the staff report and the project will not permanently affect the beach. He then referred to the criteria in WAC 173-27, and stated that staff recommends approval.

Appearing was DIANE COOPER who stated that the applicant is the largest producer of shellfish on the west coast. They have developed the geoduck program with the Department of Fish and Wildlife Services and it is a new venture. They presently have 40 acres in the South Sound planted with geoducks. They cannot plant the entire length of the bank as some portions are impacted by fresh water or predation. They cultivate in the lower tidal area commencing at either zero or plus one tides. Undeveloped property is a prerequisite. They are a strenuous advocate for clean water and work hard to keep their shorelines unpolluted.

No one spoke further in this matter and so the Examiner took the request under advisement and the hearing was concluded at 12:10 a.m.

NOTE: A complete record of this hearing is available in the office of Pierce County Planning and Land Services.

FINDINGS, CONCLUSIONS AND DECISION:

FINDINGS:

1. The Hearing Examiner has admitted documentary evidence into the record, heard testimony, and taken this matter under advisement.
2. Notice of this request was advertised in accordance with Chapter 1.22 of the Pierce County Code. Notice of the date and time of hearing was published two (2) weeks prior to the hearing in the official County newspaper. Property owners within 300 feet of the site were sent written notice. Notice has been posted on the site.
3. Pursuant to the State Environmental Policy Act and the Pierce County Environmental Regulations (Section 18D, Pierce County Code), the Pierce County Environmental Official designate has reviewed this project and issued a Determination of Nonsignificance (DNS) on October 13, 2000, with a comment period ending on October 28, 2000, and an appeal period ending on November 13, 2000. No appeals were filed. The DNS was issued after it was determined that

there would be no probable significant adverse environmental impacts as a result of this proposal.

4. The applicant, the largest producer of shellfish on the West Coast, has developed a program in conjunction with the State of Washington Department of Fish and Wildlife to plant and harvest geoduck clams along approximately one mile of shoreline on the east side of Case Inlet. The applicant has leased shorelines from private owners along Case Inlet extending north approximately one mile from Joemma Beach State Park.
5. The project consists of placing PVC pipes measuring nine inches high by six inches wide into the beach approximately five inches deep. The tubes will extend above the beach approximately two to four inches and approximately one tube will be placed per each square foot of beach. The applicant will plant four juvenile geoducks in each tube and will remove the tubes approximately one year after placement when the clams will be deep enough to evade predators. The clams will be harvested approximately five years from planting. Harvesting will involve inserting water jets run by small gasoline powered water pumps into the beach near the geoduck. The water jet will cause the beach to liquify and the geoduck to float to the surface. The applicant will sell the geoducks in Asia. The beach level will be lowered about one to two inches by the harvest but will regain its normal height following a few tidal cycles. Planting will occur waterward of the plus one tide level.
6. The beach along Case Inlet north of Joemma Beach is located within both the Conservancy and Natural Shoreline Environments of the Shoreline Master Program for Pierce County (SMP). The Conservancy Environment is intended to protect, conserve, and manage existing natural resources and to achieve sustained resource utilization. The General Regulations and Policies encourage development which maintains the existing character of the area and which does not consume the natural physical resource base. The Natural Shoreline Environment is intended to preserve the shoreline in a manner relatively free of human influence and discourage or prohibit activities which might alter its natural characteristics. The General Regulations and Policies encourage preservation of natural systems such as feeder cliffs and spits, and allows physical alterations to occur only to protect a significant, unique, or highly valued feature. Planting, growing, and harvesting geoduck clams complies with the definition, purpose, general regulations and policies of both the Conservancy and Natural Environments as it will have no permanent impact on the shoreline, and will not disturb or adversely impact feeder cliffs, spits, or any other natural significant shoreline features.

7. The project satisfies policies of the Aquacultural Practices Element of the SMP as follows:
 - A. The project complies with Policy (a) as it uses the shoreline for the production of commodities for human consumption.
 - B. Policy (c) encourages the location of aquacultural operations in areas exhibiting high qualities for aquacultural uses to maximize use of the shoreline resource. The applicant has leased shoreline areas conducive to geoduck production.
 - C. The project complies with Policy (d) as it will not cause damage to fragile areas and will maintain the highest possible levels of environmental quality. The environmental official has reviewed the project pursuant to SEPA and issued a DNS, determining that there would be no probable significant adverse environmental impacts. Furthermore, a condition of approval requires the applicant to comply with the Washington State Geoduck Growers Environmental Code of Practice.
 - D. Policy (f) encourages aquacultural enterprises in areas which will not affect navigational access of upland owners and commercial traffic. Very little, if any, commercial traffic occurs in Case Inlet and the applicant has leased the beach areas from upland owners.
 - E. Policy (g) encourages consideration of visual impacts on upland owners, and again, the applicant has leased the shoreline from said upland owners.
8. Section 20.24.030(A) of the Pierce County Shoreline Management Use Regulations (SUR) states as follows:
 - A. Subject to the guidelines for reviewing substantial development permits, geoduck harvesting is permitted outright in all shoreline environments.

Said section also requires that geoduck harvesting be conducted in a manner consistent with RCW 75.24.100.
9. Section 20.24.020 SUR sets forth the guidelines for reviewing substantial development permits for aquaculture and aquaculture practices in all shoreline environments. Findings on each applicable criteria are hereby made as follows:
 - A. The geoducks are produced for human consumption.

- B. The geoduck growing operation will cause neither erosion or accretion along the shoreline.
 - C. The project will not cause damage to fragile areas or existing aquatic resources, and in accordance with conditions of approval, will maintain the highest possible levels of environmental quality and compatibility with native flora and fauna.
 - D. The project will have no impact on water quality, noise, odor, or waste management.
 - E. No conflicts will occur between the aquaculture use, navigation, boating, recreational boating, commercial fishing, and commercial traffic. The applicant has leased shorelines from property owners.
 - F. No conflicts will occur between the applicant and upland residents as the applicant has leased the shoreline from them.
 - G. Subparagraph 11 requires an aquaculture permit from the State Department of Fisheries, and a condition of approval requires permits if necessary from the State Department of Fish and Wildlife.
 - H. No evidence was introduced to suggest that the applicant would not maintain the aquaculture project in a safe and sound condition
10. The project satisfies all criteria set forth in Section 173-27-140 and 173-27-150 of the Washington Administrative Code (WAC) addressing substantial development permits.

CONCLUSIONS:

- 1. The Hearing Examiner has jurisdiction to consider and decide the issues presented by this request.
- 2. The applicant has established that the request for a shoreline substantial development permit to allow the commercial production of geoduck clams along the east shore of Case Inlet is consistent with both the Conservancy and Natural Shoreline Environments of the SMP and also satisfies the Aquaculture Practices Element of the SMP.

3. The applicant has also shown that the request satisfies all criteria in the SUR and WAC for the issuance of a substantial development permit. Therefore, said permit should issue subject to the following conditions:
 1. The applicant shall obtain permits required, if necessary, by other agencies with jurisdiction, including, but not limited to, the U.S. Army Corps of Engineers and the Washington State Departments of Ecology, Fish and Wildlife, and Natural Resources.
 2. A Memorandum of Agreement shall be completed and recorded by the applicant with the Pierce County Auditor. No work shall begin on-site until the recording of the agreement.
 3. The applicant shall comply with the Washington State Geoduck Growers Environmental Code of Practice that was submitted with the application.
 4. Construction or substantial progress toward construction of a project for which a permit has been granted pursuant to the Act must be undertaken within two (2) years after the approval of the permit. Substantial progress toward construction shall include, but not be limited to the letting of bids, making of contracts, purchase of materials involved in development, but shall not include development or uses which are inconsistent with the criteria set forth in WAC 173-14-100. Provided, that in determining the running of the two (2) year period hereof, there shall not be included the time during which a development was not actually pursued by construction and the tendency of litigation reasonably related thereto made it reasonable not to so pursue; provided further, that local government may, at its discretion extend the two (2) year time period for a reasonable time based on factors, including the inability to expeditiously obtain other governmental permits which are required prior to the commencement of construction.
 5. If a project for which a permit has been granted pursuant to the Act has not been completed within five (5) years after the approval of the permit by local government, the local government that granted the permit shall, at the expiration of the five (5) year period, review the permit, and upon a showing of good cause, do either of the following:
 1. Extend the permit for one (1) year; or
 2. Terminate the permit; provided that nothing herein shall preclude local government from issuing Substantial Development Permits with a fixed termination date of less than five (5) years.

DECISION:

The request for a shoreline substantial development permit to allow the commercial production of geoduck clams along approximately one mile of the east shore of Case Inlet north of Joemma Beach State Park is hereby granted subject to the conditions contained in the conclusions above.

ORDERED this 28th day of December, 2000.


STEPHEN K. CAUSSEAU, JR.
Hearing Examiner

TRANSMITTED this 28th day of December, 2000, to the following:

APPLICANT: Taylor Resources, Inc.
Attn: Diane Cooper
SE 130 Lynch Road
Shelton, Washington 98584

North Bay Partnership
Attn: M. Leslie Foss, Managing Partner
219 East View Ridge Drive
Everett, Washington 98203

OTHERS:

Bud Rehberg
3802 232nd Street East
Spanaway, WA 98387

PIERCE COUNTY PLANNING AND LAND SERVICES
PIERCE COUNTY BUILDING DIVISION
PIERCE COUNTY DEVELOPMENT ENGINEERING DEPARTMENT
PIERCE COUNTY PUBLIC WORKS AND UTILITIES DEPARTMENT
TACOMA-PIERCE COUNTY HEALTH DEPARTMENT
FIRE PREVENTION BUREAU
PIERCE COUNTY PARKS AND RECREATION
PIERCE COUNTY COUNCIL
PIERCE COUNTY RESOURCE MANAGEMENT