

August 29, 2024

Via Email

Mark Tomkins, Interim DCD Director
Sophia Cassam, Land Use Planner III
San Juan County Department of Community Development
Friday Harbor, WA 98250

Re: Supplemental Comment Letter on Shaw Island Public Works Property
Redesignation and SEPA 202403563 DNS issued on August 15, 2024

Dear Mr Tomkins and Ms. Cassam,

This is a supplemental comment to my comment letter of August 23, 2024. I am a resident in the Neck Point neighborhood, who will be affected by an increase in traffic, especially large construction vehicles, on my narrow island roadway where I walk regularly and which has no shoulders. I am requesting that the DNS be withdrawn and that a factual, comprehensive Environmental Checklist be completed.

SJC Public Works has applied to change Shaw Island's official map without having produced any environmental impact assessment. As Public Works states in answer to the general proposal question (8) whether any environmental information has been or will be prepared directly related to the proposed map change: "None known." They plainly state that they know of no environmental information, nor have they prepared any.

As you know, the Environmental Checklist must provide information about a proposal's likely impacts, including cumulative impacts. The county must look at the purpose of the map change and evaluate the "reasonably foreseeable" cumulative impacts to the surrounding environment of any projects that could result from that map change. SEPA does not permit an "end run" by simply stating that the proposal is just a map change when SJC Public Works has requested the redesignation for the express purpose of using the property for such things as "road maintenance, related material waste, operations staging, and materials storage."

The case law on this subject is clear. In *Olympians for Smart Development & Livable Neighborhoods, et al. v. City of Olympia*, for example, the Growth Board ruled in 2019 that the City of Olympia's DNS for a non-project action was based on a SEPA Checklist that failed to demonstrate prima facie SEPA compliance because it failed to "evaluate the impacts allowed under the changed designation at the time

of that non-project action.” This failure was evidenced by the fact that the City responded to the Checklist nearly 50 times with statements that the question did not apply since the proposal was a non-project action. In this application, Public Works has responded to the Checklist over 60 times with such statements. Public Works has answered the Checklist questions with “None known” or “None” or “does not apply to a map change” approximately 62 times. The list of non-answers and their possible environmental impacts is detailed in an Addendum at the end of this letter.

The foreseeable results of such a map change on tiny Shaw Island (7.7 square miles) would be extensive. As Public Works observes, there is no officially mapped industrial zone on Shaw Island. The reason is that there is no need for one. There is an acre dedicated to industrial uses at the Community Building, close to the ferry landing, which has not been fully utilized since it was given to the county by Earnest and Beverly Graham many years ago. The building on the site has rarely been used and only for storage of such things as drainage pipe. Both power and water are available there; water could be provided from a very good well owned by Shaw Islanders, Inc.

As of today, most of the space in this construction yard is empty, as shown by the photographs below. There is also a permitted light industrial use at the Northwest Marine Technology site, on Ben Nevis Loop, where for 40 years there was light manufacturing of coded wire micro-tags which were shipped off island around the world. There was no noise, no air pollution, no heavy traffic, nor any other impact to the neighborhood greater than a residential use would have had. I know this for a fact since I was in-house counsel to Northwest Marine Technology, married to its founder, and obtained a conditional use permit for light industrial manufacturing and commercial use when we expanded the building. We were absolutely committed to preserving the residential environment and successfully did so for over 40 years without needing a map change.

SEPA requires that there be a comprehensive environmental review of the project—not just the map change, but the entire, foreseeable project—and that the review be published in an Environmental Checklist for public comment. The review needs to include potential environmental impacts from all of the Checklist elements.

The current DNS, issued on August 15, 2024, states that there are NO potential environmental impacts to the neighborhood or to Shaw Island. This is contrary to SEPA requirements and should be withdrawn before the deadline for appeal.

Thank you for your consideration.
Sincerely,

Lynn Bahrych

Lynn Bahrych, J.D., Ph.D.

Existing Public Works Site on Shaw Island



Existing Public Works Building at the Shaw Island Site



Detailed Failures of SJCPublic Works Application and SEPA Environmental Checklist

I. Application Inconsistencies and Incomplete Answers

Answers to Proposal Questions 1-12:

3. Describe how the map change is warranted due to changed circumstances:

Public Works answers that the changed circumstance is that they purchased the parcel. In other words, Public Works created the circumstance that they claim warrants the map change. Nothing on Shaw Island has changed for many years; the ditches are cleaned out about every 6 or 7 years. Very little has been needed or indeed wanted on Shaw Island’s twelve miles of county road.

4. Describe how the map change is consistent with the existing land use designation: Public Works answers that staff will be using the property as a “home base” which would be consistent with the RFF designation, but since the application is to change that to Rural Industrial—where no residential uses are permitted—the proposed map change is significantly inconsistent with surrounding residential uses. The impact of a busy industrial zone in the middle of a residential neighborhood is not acknowledged.

5. Describe how the map change will not result in an enclave of property owners enjoying greater privileges: In this case, an enclave of property owners would be disproportionately and unfairly harmed by the insertion of an industrial zone in their midst. Real estate values drop due to the “stigma” of such a zoning change, introducing impacts inconsistent with residential uses. The drop in value has not been analyzed or accounted for in this application.

6. Describe how the benefits will outweigh any significant adverse impacts: Since Public Works answers that “No significant adverse impacts are anticipated,” the question is avoided, not answered. The financial loss to the adjacent properties is not addressed.

II. SEPA Environmental Checklist Incomplete Answers

A. Background questions

7. Describe plans for future additions, expansion, or related activities:

The short answer is “road material waste, operations staging, and material storage” without mentioning housing and worker accommodations for up to 7 workers.

8. List any environmental information you know that has been prepared or will be prepared directly related to this proposal: Public Works answer is “None known.”

10. List any governmental approvals or permits that will be needed for your proposal: “None known at this time.” Elsewhere Public Works admits that permits will be needed to do the things it intends for this site, but this is not acknowledged here, which is something that affected neighbors wishing to comment need to know.

11. Give a brief complete description of the proposal, including the proposed uses and size of the project and site: Public Works answers with a single sentence: ‘to change the designation from RFF to RI.’ No other project description is provided.

B. Environmental Elements

1. **Earth:** The site is described as “hilly” with a 30% slope in the northwest corner and south central area, but there is no assessment of the effect of hills or slopes on the contaminated soils that would be deposited there. In answer to questions about erosion or earth moving, grading, or clearing, the answers are all “**None known,**” “**no earthwork required,**” “**erosion will not occur as a result of a land use redesignation,**” “**no construction prosed for redesignation,**” and “**no erosion.**” Since the application states that the future use will be “road material waste, operation staging, and material storage,” it is clear that there will be construction required to alter the existing densely forested area. Forested areas would need to be logged to create the proposed Material Disposal Area, Burn Area, and Equipment Storage area shown on the project map. The narrow driveway would presumably be widened, but none of this is disclosed. See photographs below showing the density of the forest on the site and the narrow driveway.

2. **Air:** The answers to three questions are all “None” or “No air emissions known.” No measures will be taken to control emissions, despite the site map showing a “Burn Area.”

3. **Water:** No study has been done of the topography, despite it being described as “hilly” with a 30% slope in places. In answer to question 6, Public

Works states that there will be “No material discharge of waste materials” to surface waters. Since the site is intended for discharge of waste materials and it is hilly, there could be discharge to surrounding surface waters.

For the Ground Water impacts, there is no answer to the requirement that approximate quantity of well water be stated and that the uses of ground water be identified. Public Works answer is simply that there is a well. No information about the well itself, its history, its hydrolic continuity, if any, with neighboring wells. The only answer is that there is a well.

Answers to 3.c. concerning runoff are all “None” or “unknown” or “No impact.” For 3.d., the answer is that no measures to reduce or control runoff are planned.

4. **Plants:** Public Works answers that no vegetation will be removed or altered despite the fact that the parcel is heavily wooded. No threatened or endangered species are known, but there have been no studies. No proposed landscaping is described. As the photographs below show, this is a densely forested parcel.

5. **Animals:** Answers to 5.b, c, d, and e are “None known.” No impacts on animals have been identified or assessed.

6. **Energy and Natural Resources:** No energy needs are identified. The answer to energy conservation planning is “None.”

7. **Environmental Health:** The question asked is whether there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste that could occur because of this proposal. Public Works’ answer is that there are “no environmental health impacts associated with the current Land Use Redesignation proposal.” The facts, as provided by Public Works, are that they plan to dispose of road waste, which contains heavy metals, on the parcel and to establish a large burn area where waste materials will be burned. The answers to the six specific questions in this section are all “None.”

The same answers are given concerning noise impacts even though the application shows an equipment storage area where construction equipment would be stored as well as used; again the three specific questions are all answered with “None.” Such industrial uses would be expected to produce more noise than residential uses unless there is a noise mitigation plan in place.

8. **Land and Shoreline Use:** Generally the answers are all that since it is only a map change, it will not affect adjacent property. No impacts are “known to the applicant” from the conversion from residential to industrial despite the fact that the surrounding forest would need to be cleared in places. A critical aquifer recharge area would not be protected. Four to seven workers could be working and in some fashion living on site in place of one single-family residential unit . That unit would be lost to industrial development because the county code is clear that residential and industrial uses cannot be mixed. (Only if a residential structure is constructed as part of an industrial development; no pre-existing residential structures can be used for that purpose in an industrial zone.)

The extremely important question about compatible uses in question 8.1., whether the proposed measure is compatible with existing and projected land uses, is not answered.

9. **Housing:** Although one SFR is being removed from Shaw Island’s housing inventory, the answers to these three questions are all “None.”

10. **Aesthetics:** The answer to any aesthetic effects of introducing an industrial zone into a residential neighborhood are all “none.”

11. **Light and Glare:** Although winter daylight hours are very short, requiring extra lighting for safe industrial operations, the four questions here are all answers with “none” or “No light or glare.”

12. **Recreation:** The three questions about impacts on recreation are all answered with “None “ or “no displacement.” Since Shaw has narrow roads without shoulders, those walking or riding bicycles must use the roadway. Having industrial equipment driving up and down Neck Point Road, which is entirely residential, will present a safety hazard to residents and visitors who have no choice except to walk or ride in the road.

13. **Historic and Cultural Preservation:** Answer to the four questions are “None known” and ‘no methods were used to assess this.’ There are cultural artifacts on Shaw; the Shaw Island Historical Society has records of where they have been found. No effort was made to assess this.

14. **Transportation:** The project will require a wider driveway and clearance at the intersection with Neck Point Road for safety since large vehicles leaving will need to see and be seen by traffic. No impacts are identified. In answer

to the question of how many vehicular trips per day would be generated and what percentage would be trucks, the answer is “Redesignation does not require transportation.” The answer to all of these questions is “no” or “no information available.”

15. Public Services: In answer to the question of increased need for fire protection, policing, or health care, the answers again are “No” and “None.” There are no medical services available on Shaw Island, so adding an industrial zone where large equipment will be used and construction work undertaken, plus a large burn area where waste materials will be burned, makes the probability of injury much higher than with residential use. Shaw has a small volunteer fire department which would need a plan to handle the kind of fire that could escape from a dedicated Burn Area of the size shown on the map.

16. Utilities: When asked to describe the utilities proposed for the project or needed for general construction activities on the site or in the immediate vicinity , the answer again is None: “No utilities are required.”

See driveway and existing forest density at 1427 Neck Point Road in the two photographs below:



