



199907260010

Kathy Hill, Skagit County Auditor

7/26/1999 Page 1 of 10 9:20:28AM

AFTER RECORDING RETURN TO:
SKAGIT COUNTY HEARING EXAMINER
302 SOUTH FIRST STREET
MOUNT VERNON, WA 98273

DOCUMENT TITLE: ORDER ON SHORELINE SUBSTANTIAL DEVELOPMENT VARIANCE
PERMIT SL 99 0230

GRANTOR(S): SKAGIT COUNTY HEARING EXAMINER

GRANTEE: DANIEL GOODFELLOW

ASSESSOR PARCEL NOS: P62114

ABBREVIATED LEGAL DESCRIPTION: located at 18903 West Big Lake Blvd., Mount
Vernon, WA; within Section 6, Township 33 North, Range 5 East, W.M., Skagit County,
Washington.

SKAGIT COUNTY HEARING EXAMINER
STATE OF WASHINGTON

In the matter of:)	
Application No. SL 99 0230)	Findings of Fact
Of DANIEL GOODFELLOW)	Entry of Order
for a SHORELINE SUBSTANTIAL DEVELOPMENT/)	No. SL 99 0230
VARIANCE PERMIT for: placement of a 25 foot high)	
garage within the shore setback area of Big Lake.)	
)	

THIS MATTER having come regularly before the Skagit County Hearing Examiner for a Public Hearing under an application filed with the Skagit County Planning and Permit Center on behalf of the Applicant requesting a Shoreline Substantial Development/Variance Permit as described in the attached Report and Findings of that Department and located at 18903 West Big Lake Blvd., Mount Vernon, WA; within Section 6, Township 33 North, Range 5 East, W.M., Skagit County, Washington;

Assessor Parcel No: P62114

And, notice having been given to all property owners within 300 feet of said property and all matters in the file having been considered together with the testimony, evidence, and exhibits in open hearing and made a part of the record in this matter; the Hearing Examiner makes the following findings of fact.

FINDINGS OF FACT

1. July 14, 1999 was fixed as the date of the public hearing and the Hearing Examiner held a public hearing on that date.
2. All persons present at the Public Hearing were given an opportunity to present evidence and testimony, and all correspondence received was made a part of the record.
3. The Application was advertised in accordance with the requirements of the Skagit County Shoreline Management Program (Section 14.28 of the Skagit County Code) and Chapter 173-14-070 of the Washington Administrative Code. The Public Hearing was advertised in accordance with the requirements of Section 14.01 of the Skagit County Code.
4. The Planning and Permit Center issued a Staff Report and Findings. The Hearing Examiner adopts Findings No. one (1) through eight (8) as presented in that Report.



199907260010

Kathy Hill, Skagit County Auditor

5. The height of the structure above that permitted in the SMP is necessary to provide a reasonable amount of storage within the garage; the footprint of the garage is limited by application of the Critical Areas Ordinance.

Criteria for Granting Substantial Development Permits:

- A. Section 9.02 of the Skagit County Shoreline Management Master Program establishes criteria and standards for consideration of Shoreline Substantial Development Permits. These criteria and standards are as follows:
 1. Upon the effective date of this program, a shoreline substantial development permit or a statement of exemption shall be granted only when the proposed development is consistent with:
 - a. Policies and regulations of the Skagit County Shoreline Master Program; and
 - b. Applicable policies enumerated in RCW 90.58.020 in regard to shorelines of the state and shorelines of statewide significance; and
 - c. Regulations adopted by the Department of Ecology pursuant to the Act (WAC 173-14).
 2. Burden of Proof - The burden of proving that the proposed development is consistent with the above (paragraph 1) shall be on the applicant.
- B. Section 10.03 of the Skagit County Shoreline Management Master Program establishes criteria and standards for consideration of Shoreline Variance Permits. These criteria and standards are as follows:
 1. Variance permits for development to be located landward of the ordinary high water mark (OHWM), except within areas designated marshes, bogs or swamps pursuant to Chapter 173-22, Washington Administrative Code, may be granted provided the applicant can meet all the following criteria; the burden of proof shall be on the applicant.
 - a. That the strict application of the bulk dimensional or performance standards set forth in this Master Program precludes or significantly interferes with a reasonable use of the property not otherwise prohibited by this Master Program.



199907260010

Kathy Hill, Skagit County Auditor

7/26/1999 Page 3 of 10 9:20:28AM

- b. That the hardship described above is specifically related to the property and is the result of unique conditions such as irregular lot shape, size or natural features and the application of this Master Program and not, for example, from deed restrictions or the applicant's own actions.
 - c. That the design of the project will be compatible with other permitted activities in the area and will not cause adverse effects to adjacent properties or the shoreline environment designation.
 - d. That the variance authorized does not constitute a grant of special privilege not enjoyed by other properties in the same area and will be the minimum necessary to afford relief.
 - e. That the public interest will suffer no substantial detrimental effect.
2. In the granting of all variance permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if variances were to be granted to other developments in the area where similar circumstances exist, the total of the variances should also remain consistent with the policies of RCW 90.58.020 and this Master Program and should not produce substantial adverse effects to the shoreline environment.
6. The Hearing Examiner reviewed this application with respect to the above criteria for approval and the requirements of Section 14.28 of the Skagit County Code.

CONCLUSIONS

The Hearing Examiner, having duly considered the matter, including all the testimony and evidence presented at the Public Hearing and on file including the application, the Environmental Information required by the State Environmental Policy Act Guidelines and other environmental information, information from other interested persons, information from other County Departments affected, and independent studies of the Skagit County Planning and Permit Center finds that:

1. The proposed development, with the appropriate conditions, modifications, and/or restrictions which, if necessary and applicable, are listed below as conditions of approval is consistent and/or compatible with the following policies, regulations, and statutes:
 - a. The Policies and Regulations of the Skagit County Shorelines Management Master Program; and



199907260010

Kathy Hill, Skagit County Auditor

- b. Applicable policies enumerated in R.C.W. 90.58.020 in regard to shorelines of the state and shorelines of statewide significance; and
 - c. Regulations adopted by the Washington State Department of Ecology pursuant to the Shorelines Management Act and contained in Chapter 173-14, Washington Administrative Code.
2. That the proposed project substantially meets the criteria for granting variance permits as set forth in Section 10.03 of the Skagit County Shoreline Management Master Program.

DECISION

The Hearing Examiner APPROVES the application for a Shoreline Substantial Development/Variance Permit subject to the following conditions:

1. All construction debris shall be properly disposed of on land in such a manner that it cannot enter into the waterway or cause water quality degradation.
2. The project shall be started within two (2) years of the date of this order and completed within five (5) years of the date of this order or the shoreline permit will be void.
3. Per SCC 14.06.145(2), within 120 days of approval of this permit, the applicant shall record with the Skagit County Auditor the site plan prepared by Chopelas & Associates and dated April 7, 1999 showing the dimensions of the developed and undeveloped areas within the buffer of the Protected Critical Area (Big Lake), or the permit will be null and void.
4. The applicant shall obtain a Skagit County Building Permit and obtain all the necessary approvals incorporated within the said permit.
5. The subject proposal shall comply with the Skagit County Shoreline Management Master Program and the Shoreline Management Act RCW 90.58.
6. The applicant shall strictly adhere to the project information (site diagram) submitted for this proposal. If the applicant proposes any modification of the subject proposal, they shall request a permit revision from the Skagit County Planning and Permit Center prior to start of construction.



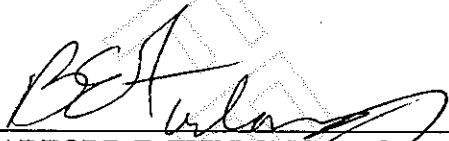
199907260010

Kathy Hill, Skagit County Auditor

7/26/1999 Page 5 of 10 9:20:28AM

This decision shall become final five (5) days from the date of this order unless appealed in accordance with Sections 9.11 or 13.01 of the Skagit County Shoreline Management Master Program.

SKAGIT COUNTY HEARING EXAMINER


BRADFORD E. FURLONG, PRO TEM

Date of Action: 7/22/99

Copies transmitted to Applicant: 7/22/99

Attachment: Staff Report and Findings



199907260010

Kathy Hill, Skagit County Auditor

7/26/1999 Page 6 of 10 9:20:28AM

1 REVIEWING AUTHORITY: Skagit County Hearing Examiner
2
3 PUBLIC HEARING DATE: July 14, 1999
4
5 APPLICATION FOR: Shoreline Substantial Development/Variance #SHL
6 99-0230
7
8 APPLICATION DATE: April 13, 1999
9
10 APPLICANT: Daniel Goodfellow
11 4621 78th PI SW
12 Mukilteo, WA 98275
13

14 P# 62114
15

16 PROJECT DESCRIPTION: The placement of a 25 foot high garage 118 feet from the
17 Ordinary High Water Mark (OHWM). Placement of a lower structure with a larger
18 footprint is hindered by steep topography and a winding access road.
19

20 PROJECT LOCATION: The proposed project is located at 18903 W. Big Lake Blvd,
21 Mount Vernon within a portion of Section 6, Township 33 North, Range 5 East, W.M.,
22 Skagit County. The subject proposal is located on the shoreline of Big Lake designated
23 Rural Residential under the Shoreline Master Program.
24

25 RECOMMENDATION: **Approval**, with conditions stated at the end of the report.
26

27 EXHIBITS:

- 28 1. Staff Report
29 2. April 13, 1999, Shoreline Substantial Development application SHL99-0230 and
30 Critical Area Review Form with a narrative, ownership certification and maps.
31 3. May 20, 1999, Notice of Development Application.
32 4. April 27, 1999 Letter of Completeness.
33 5. April 7, 1999 Fish & Wildlife Site Assessment & Geotech Report prepared by
34 Chopelas & Associates.
35

36 STAFF FINDINGS:

- 37
38 1. The application has been advertised in accordance with Section 9.04 of the Skagit
39 County Shoreline Master Program (SMP) and WAC 173-14-070.
40
41 2. The subject proposal is located on the shoreline of a property with a single-family
42 residence on Big Lake in an area designated as a Urban Growth Area by the
43 Skagit County Comprehensive Plan and within the Residential District under the
44 Skagit County Zoning Ordinance. The property is designated as Rural Residential
45 in the Skagit County Shoreline Management Program (SCSMMP).
46
47 3. No objections have been received regarding this proposal.



199907260010

Kathy Hill, Skagit County Auditor

1
2 4. Staff determined that the subject proposal required a Site Assessment/Habitat
3 Management Plan as required in 14.06.520 of the Skagit County Critical Areas
4 Ordinance (CAO) which was provided on April 13, 1999. The report determined
5 that the proposal will have little if any negative impact to the site especially if
6 Best Management Practices regarding erosion control are utilized.

7
8 5. Staff has determined that the subject proposal shall be reviewed for consistency
9 with SMP Chapter 7.13 Residential Development.

10
11 5.13 (B) Single Family Residences

12 Although single family residences are exempt from shoreline permit procedure
13 (RCW 90.58.030 (3-e-vi)), the county, for the benefit of the lot owner, adjacent
14 properties, and other shoreline and water body users, should review all proposals
15 for construction to determine if:

16 (1) The proposal is or is not exempt from permit procedures

17 *This proposal is not exempt as an residential appurtenance as noted in*
18 *WAC 173-27-040(g) because of the height requested exceeds the 15 foot*
19 *maximum allowed for an accessory structure as noted in TableRD in the*
20 *SCSMMP 7.13(2)(C) reduced setback requests on the shoreline.*

21 (2) The proposal is suitably located and designed and that all-potential
22 adverse impacts to the shoreline and water bodies have been
23 recognized and mitigated.

24 *The report submitted by Chopelas & Associates identified little if any*
25 *negative environmental impacts and recommended Best Management*
26 *Practices be practiced during construction and prompt revegetation of*
27 *disturbed areas after construction.*

28
29 7.13 (C) Location

30 (1) Existing and designated areas - New substantial developments should locate in
31 existing developed areas or in officially designated residential areas providing
32 development in these areas is consistent with this program.

33 *The area was adopted as part of the Big Lake Urban Growth Area in the 1997*
34 *Skagit County Comprehensive Plan. This Urban Growth Area designation reflects*
35 *the urban setting that already exists in this area.*

36 (2) Geohydraulics - Residential development should be located:

37 a. so as not to interfere with geohydraulic processes.

38 b. Inland from feeder bluffs, drift sectors, and accretion shore forms.

39 c. To avoid or minimize the need for shore defense, stabilization, and flood
40 protection works.

41 d. To utilize and protect the integrity of the shore resources for the benefit of
42 present and future residents and users.

43 *The current proposal will not require shoreline stabilization or flood protection*
44 *works*



199907260010

Kathy Hill, Skagit County Auditor

7/26/1999 Page 8 of 10 9:20:28AM

1 6. The Skagit County Planning and Permit Center has determined that the subject
2 request is consistent with the criteria for granting Shoreline Substantial Development
3 Permits.

4
5 7. Master Program, Chapter 10 Variances, sets forth the criteria for granting Shoreline
6 Variance Permits. Section 10.03(1) - Criteria for granting shoreline variance permits
7 reads:

8
9 Variance permits for development to be located landward of the ordinary high
10 water mark (OHWM), except within areas designated marshes, bogs or swamps
11 pursuant to Chapter 173-22 WAC, may be granted provided the applicant can meet
12 all the following criteria; the burden of proof shall be on the applicant.

13
14 a. That the strict application of the bulk, dimensional or performance
15 standards set forth in this Master Program precludes or significantly
16 interferes with a reasonable use of the property not otherwise
17 prohibited by this Master Program. *The existing lot contains steep*
18 *topography which causing the portion of the lot closest to the road to be*
19 *unusable for a building site. Also, the steepness of the slope has caused the*
20 *access road to switchback in order to anticipate the slope.*

21
22 b. That the hardship described above is specifically related to the
23 property and is the result of unique conditions such as irregular lot
24 shape, size or natural features and the application of this Master
25 Program and not, for example, from deed restrictions or the applicant's
26 own actions. *The hardship is specifically related to the specific natural*
27 *features and was not caused by the applicant.*

28
29 c. That the design of the project will be compatible with other permitted
30 activities in the area and will not cause adverse effects to adjacent
31 properties or the shoreline environment designation. *The entire lakefront*
32 *has been developed for intensive rural residential use as demonstrated by*
33 *the Urban Growth Area designation by the Skagit County Comprehensive*
34 *Plan. The steep topography removes the possibility of visibility issues with*
35 *adjacent property owners.*

36
37 e. That the variance authorized does not constitute a grant of special
38 privilege not enjoyed by the other properties in the same area and will
39 be the minimum necessary to afford relief. *Due to steep slopes and lack*
40 *of buildable area on the lot the only way the applicant is able to achieve*
41 *some storage space is by building up rather than out.*

42
43 f. That the public interest will suffer no substantial detrimental effect. No
44 detrimental effect has been identified.

45
46 9. The Skagit County Department of Public Works has no comment on the proposal.



199907260010

Kathy Hill, Skagit County Auditor

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2
3
4 RECOMMENDATION
5

6 Based on the above findings, the Skagit County Planning and Permit Center would
7 recommend for approval of a Shoreline Substantial Development Permit subject to the
8 following conditions:
9

- 10 1. All construction debris shall be properly disposed of on land in such a manner that it
11 cannot enter in to the waterway or cause water quality degradation.
12
13 2. The project must be started within two (3) years of the date of this order and
14 completed within (5) years of the date of this order or the shoreline permit will
15 become void.
16
17 3. The applicant shall record the site plan prepared by Chopelas & Associates and
18 dated April 7, 1999 showing the dimensions of the developed and undeveloped
19 areas within the buffer of the Protected Critical Area (Big Lake). The site plan
20 must be recorded at the County Auditors (SCC 14.06.145(2)) office within 120
21 days of approval of this permit or the permit will become null & void.
22
23 4. The applicant must obtain a Skagit County Building Permit and receive all the
24 necessary approvals incorporated within the said permit.
25
26 5. The subject proposal shall comply with the Skagit County Shorelines Master
27 Program and the Shoreline Management Act RCW 90.58. In doing so, the applicant
28 shall receive a Skagit County Shorelines Substantial Development Permit.
29
30 6. The applicant shall strictly adhere to the project information (site diagram) submitted
31 for this proposal. If the applicant proposes any modifications of the subject proposal,
32 he/she shall request a permit revision from this office prior to the start of
33 construction.
34
35

36 Prepared By: DD

37 Approved By:

38 Date: July 13, 1999



199907260010

Kathy Hill, Skagit County Auditor

7/26/1999 Page 10 of 10 9:20:28AM