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Kathy Hill, Skagit County Auditor

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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 0191

HEARING OFFICER: SKAGIT COUNTY HEARING EXAMINER

APPELLANT: SCOTT and LAUREL HARRISON

ASSESSOR PARCEL NO: P64872

ABBREVIATED LEGAL DESCRIPTION: located at 15855 Yokeko Drive, Anacortes, WA;
within Section 24, Township 34 North, Range 1 East, W.M., Skagit County, Washington.

SKAGIT COUNTY HEARING EXAMINER
STATE OF WASHINGTON

In the matter of:)	
Application No. SL 99 0191)	Findings of Fact
Of SCOTT & LAUREL HARRISON)	Entry of Order
for a SHORELINE SUBSTANTIAL DEVELOPMENT/ VARIANCE PERMIT for: addition of 184 s.f. to the first floor, the addition of a second floor and replacement of an additional building within the shore setback area of Similk Bay.)	No. SL 99 0191
)	
)	

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 15855 Yokeko Drive, Anacortes, WA; within Section 24, Township 34 North, Range 1 East, W.M., Skagit County, Washington;

Assessor Parcel No: P64872

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

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 14.04 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 six (6) as presented in that Report.



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5. The staff testified that it has concluded that due to age and size of the existing structure, no reasonable use can be made of the property without the requested variances. In that there was no contrary evidence received into the record, the Hearing Examiner must consider that the burden of proof on this point has been met.
6. **Criteria for Granting Substantial Development Permits:**
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.
7. 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.



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- 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.
8. The Hearing Examiner reviewed this application with respect to the 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



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- 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 properly disposed of on land in such a manner that it cannot enter 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 become void.
3. Within 120 days of approval of this permit the applicant shall record with the Skagit County Auditor the site plan prepared by Graham Bunting & Associates and dated June 1, 1999 showing the dimensions of the developed and undeveloped areas within the buffer of the Protected Critical Area (Similk Bay), or this permit will be null and void. The applicant shall comply with the recommendation made by Graham bunting regarding revegetated upland areas after construction.
4. The applicant shall obtain a Skagit County Building Permit and obtain all 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 the start of construction.



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7. The applicant shall, within 30 days of final inspection, remove the cooking facilities from the guest house in order to comply with SCC 14.04.090(3)(c).

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: 7/26/99
Copies transmitted to Applicant: 7/26/99
Attachment: Staff Report and Findings



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1 REVIEWING AUTHORITY: Skagit County Hearing Examiner
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3 PUBLIC HEARING DATE: July 14, 1999
4
5 APPLICATION FOR: Shoreline Substantial Development/Variance #SHL
6 99-0191
7
8 APPLICATION DATE: April 16, 1999
9
10 APPLICANT: Scott & Laurel Harrison
11 15855 Yokeko Drive
12 Anacortes, WA 98221
13

14 PROJECT DESCRIPTION: The addition of 184 Sq. feet to the 1st floor of the existing
15 residence, the addition of a second floor on the existing residence, the removal of an
16 existing shop and garage to be replaced by a guesthouse 8 feet farther removed from the
17 OHWM.
18

19 PROJECT LOCATION: The proposed project is located at 15855 Yokeko Drive within a
20 portion of Section 24, Township 34 North, Range 1 East, W.M., Skagit County.
21

22 RECOMMENDATION: **Approval**, with conditions stated at the end of the report.
23 EXHIBITS:

- 24
25 1. Staff Report
26 2. April 16, 1999, Shoreline Substantial Development application and Critical Area
27 Review Form with a narrative, ownership certification and maps.
28 3. April 22, 1999, Notice of Development Application.
29 4. April 16, 1999 Letter of Completeness.
30 5. June 2, 1999 Fish & Wildlife Habitat Analysis prepared by Graham-Bunting &
31 Associates.
32 6. March 3, 1999 Letter of support from William & Marietta Maris.
33

34 STAFF FINDINGS:

- 35
36 1. The application has been advertised in accordance with Section 9.04 of the Skagit
37 County Shoreline Master Program (SMP) and WAC 173-14-070.
38
39 2. The subject proposal is located on the shoreline of a property with a single-family
40 residence on Smilk Bay in an area designated as a Rural Intermediate by the
41 Skagit County Comprehensive Plan and within the Residential District under the
42 Skagit County Zoning Ordinance. The property is designated as Rural Residential
43 in the SMP.
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45 3. No objections have been received regarding this proposal.
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4. Staff determined that the subject proposal required a Site Assessment/Habitat Management Plan as required in 14.06.520 of the Skagit County Critical Areas Ordinance (CAO) which was provided on June 2, 1999. The report identified three recommendations to mitigate any adverse impacts that may be caused by the proposal.

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

5.13 (B) Single Family Residences

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

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

This proposal is not exempt because:

- a. *The main home portion of the proposal is to add a second story to an existing residence which sits 20 feet from the Ordinary High Water Mark (OHWM) thereby requiring a variance for expansion at that distance.*
- b. *The single-family residence exemption applies to only one structure thereby requiring that the second structure be considered "substantial development".*
- c. *The guesthouse will set 43 feet from the OHWM thereby requiring a variance from the 50 foot minimum setback for a residence.*
- d. *The guesthouse will be 17'2" high which requires a variance for exceeding 15' feet as an accessory structure.*
- e. *The first floor addition to the main house is proposed to have a 7 foot side property setback instead of the standard 8 feet.*

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

The proposal is more environmentally sensitive because the guesthouse that replaces the garage is 8 feet farther back from the OHWM.

7.13 (C) Location

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

The area was designated as Rural Intermediate by the 1997 Skagit County Comprehensive Plan, which is the most dense rural land use designation other than Rural Village in Skagit County. The entire area is already highly developed for residential uses and therefore is preferable for further residential development.

(2) Geohydraulics - Residential development should be located:



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- 1 a. so as not to interfere with geohydraulic processes.
2 b. Inland from feeder bluffs, drift sectors, and accretion shore forms.
3 c. To avoid or minimize the need for shore defense, stabilization, and flood
4 protection works.
5 d. To utilize and protect the integrity of the shore resources for the benefit of
6 present and future residents and users.

7 *The current proposal will not require shoreline stabilization or flood protection*
8 *works*

9
10 6. The Skagit County Planning and Permit Center has determined that the subject
11 request is consistent with the criteria for granting Shoreline Substantial Development
12 Permits.

13
14 7. Master Program, Chapter 10 Variances, sets forth the criteria for granting Shoreline
15 Variance Permits. Section 10.03(1) - Criteria for granting shoreline variance permits
16 reads:

17
18 Variance permits for development to be located landward of the ordinary high
19 water mark (OHWM), except within areas designated marshes, bogs or swamps
20 pursuant to Chapter 173-22 WAC, may be granted provided the applicant can meet
21 all the following criteria; the burden of proof shall be on the applicant.

22
23 a. **That the strict application of the bulk, dimensional or performance**
24 **standards set forth in this Master Program precludes or significantly**
25 **interferes with a reasonable use of the property not otherwise**
26 **prohibited by this Master Program.** *The existing lot varies in topography,*
27 *and is irregularly shaped with an irregular shoreline boundary.*

28
29
30 b. **That the hardship described above is specifically related to the**
31 **property and is the result of unique conditions such as irregular lot**
32 **shape, size or natural features and the application of this Master**
33 **Program and not, for example, from deed restrictions or the applicant's**
34 **own actions.** *The hardship is specifically related to the topography, the*
35 *irregular shape of the shoreline on the lot, access road location and the*
36 *existing placement of the main residence which was not caused by the*
37 *applicant*

38
39 c. **That the design of the project will be compatible with other permitted**
40 **activities in the area and will not cause adverse effects to adjacent**
41 **properties or the shoreline environment designation.** *The entire area has*
42 *been developed for intensive rural residential use as demonstrated by the*
43 *Rural Residential Shoreline designation as well as the Rural Intermediate*
44 *designation in the Skagit County Comprehensive Plan. No adverse effects*
45 *are anticipated by the proposal.*



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- d. **That the variance authorized does not constitute a grant of special privilege not enjoyed by the other properties in the same area and will be the minimum necessary to afford relief. Due to the afore mentioned conditions this proposal does not constitute a grant of special privilege.**
- e. **That the public interest will suffer no substantial detrimental effect. No detrimental effect has been identified.**

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

RECOMMENDATION

Based on the above findings, the Skagit County Planning and Permit Center would recommend for **approval** of a Shoreline Substantial Development 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 in to the waterway or cause water quality degradation.
2. The project must be started within two (3) years of the date of this order and completed within (5) years of the date of this order or the shoreline permit will become void.
3. The applicant shall record the site plan prepared by Graham Bunting & Associates and dated June 1, 1999 showing the dimensions of the developed and undeveloped areas within the buffer of the Protected Critical Area (Similk Bay). The site plan must be recorded at the County Auditors (SCC 14.06.145(2) office within 120 days of approval of this permit or the permit will become null & void. The applicant shall also comply with the recommendation made by Graham & Bunting regarding revegetated upland areas after construction.
4. The applicant must obtain a Skagit County Building Permit and receive all the necessary approvals incorporated within the said permit.
5. The subject proposal shall comply with the Skagit County Shorelines 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 modifications of the subject proposal, he/she shall request a permit revision from this office prior to the start of construction.
7. The applicant shall within 30 days of final inspection remove the cooking facilities from the guesthouse in order to comply with S.C.C 14.04.090(3)(c).



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Prepared By: DD

Approved By:

Date:

July 13, 1999



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