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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 SL 99 0579

HEARING OFFICER: SKAGIT COUNTY HEARING EXAMINER

APPLICANT: JERRY and BARBARA WELCH

ASSESSOR PARCEL NO: P67056

ABBREVIATED LEGAL DESCRIPTION: located at 35061 South Shore Drive, Mount Vernon, Washington; within Section 36, Township 33 North, Range 06 East, W.M., Skagit County, Washington.

SKAGIT COUNTY HEARING EXAMINER
STATE OF WASHINGTON

In the Matter of the Application of)	
JERRY AND BARBRA WELCH)	SL99-0579
)	
For a Shoreline Substantial Development)	Findings of Fact,
Permit to replace a Commercial Dock on)	Conclusions of Law
the Southeast Shore of Lake Cavanaugh)	And Decision
)	

THIS MATTER related to an application for a Shoreline Substantial Development Permit by Jerry and Barbra Welch. The application came on for hearing on January 26, 2000, after due notice. The Skagit County Planning and Permit Center was represented by Daniel Downs. Warren Otteson appeared for the applicants. There was supporting testimony from one member of the public.

Based on the presentations at the hearing, the written materials submitted and the arguments advanced, the following is entered:

FINDINGS OF FACT

1. Jerry and Barbara Welch (applicants) propose to replace an existing wood dock with a new floating cement dock that will extend around 120 feet waterward of the Ordinary High Water Mark. The dock is designated a commercial use because it will serve the revived Lake Cavanaugh market, located on the upland adjacent.
2. The proposed location is at 35061, South Shore Drive on the southeast shore of Lake Cavanaugh, within Sec. 36, T33N, R6E. WM. The shoreline parcel from which the dock extends consists of about 2.03 acres -- sloping gently to the lake, largely in lawn. It has long been the site of a store which in the past served properties around the lake. The dock allows shopping by boat.
3. The new dock will be about the same length as the old one. But it will be oriented a little differently, with its shore connection somewhat to the east of the present dock's. A new float will be placed perpendicular to the main dock at the outer end. The top of the "T" will be 48 feet in length. All parts of the new dock will be eight feet in width.
4. The existing dock has been in place for nearly 30 years. It has fallen into bad repair. The new structure will substitute cement floats held in place by six steel pilings for a wooden dock on 28 wooden pilings. The new structure is essentially a floating dock, built to accommodate lake level variations of around 30 inches. The new dock is being installed concurrent with the applicants' efforts to rebuild the store.

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5. The new dock will be constructed off-site with the completed sections trucked to the lake. The rotted wood deck will be removed and the present wood piled will be pulled up and barged away.

6. Because the new dock is a complete replacement of the old one, built of different material and in a slightly different position, for shorelines purposes it must be evaluated as a new project, rather than as routine maintenance of an existing development.

7. The new dock will be for transient use only. No long-term moorage will be allowed.

8. The property is within the area designated as the Lake Cavanaugh Rural Village under the Comprehensive Plan. The zoning district is Rural Village Commercial. The shoreline designation is Rural Residential.

9. The proposed replacement dock will not impose adverse environmental impacts. It will be constructed of non-polluting materials. A Mitigated Determination of Non-Significance (MDNS) was issued for the project on November 11, 1999. No adverse comments were elicited. The MDNS was not appealed. The conditions imposed include the use of best management practices to protect water quality and a prohibition on storage of petroleum or hazardous products on the dock.

10. In general, under the policies of the Shoreline Management Act (SMA), development on shorelines is to be concentrated in areas where development has already occurred. This replacement structure is consistent with the idea limiting new alterations of the natural condition of shorelines.

11. Docks are permitted in the Rural Residential shoreline designation subject to compliance with the General Regulations of the Shoreline Master Program (SMP). The Staff has reviewed the SMP's policies and regulations for Piers and Docks (SMP 7.10) and determined that the instant proposal satisfies them. The Examiner concurs. Indeed, this commercial dock will advance the public access objectives of the shoreline program. It will be open to the public and functionally serve as a kind of community facility.

12. No adverse comments were received from any County Departments or from members of the public.

13. Any conclusion herein which may be deemed a finding is hereby adopted as such.

CONCLUSIONS OF LAW

1. The Examiner has jurisdiction over the parties and the subject matter of this proceeding.

2. The requirements of the State Environmental Policy Act have been met.

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3. By the Staff's interpretation, the replacement project is exempt from Critical Areas review. SCC 14.06.090(3).

4. Under SMP 9.02, a Shoreline Substantial Development Permit 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).

5. The instant proposal meets the relevant SMP policies and regulations and is consistent with the applicable policies of the SMA (RCW 90.58.020). The shorelines in question are not shorelines of statewide significance.

6. Chapter 173-14 WAC has been superseded by Chapter 173-27 WAC. This chapter contains the Department of Ecology's permit regulations. The review criteria set forth therein for Substantial Development Permits are substantial the same as those set forth at SMP 9.02.

7. The findings support a conclusion that the proposed development is consistent with the applicable criteria for approval of a Substantial Development Permit, if the following conditions of approval are imposed and complied with:

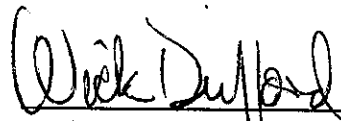
- a. The project shall be constructed in accordance with the application and accompanying materials, including in particular the site diagram submitted.
- b. All other required permits and approvals shall be obtained. Specifically, the permittee shall contact the State Departments of Fish and Wildlife and of Natural Resources and meet any requirements those agencies may have.
- c. All construction debris shall be properly disposed of on land in such a manner that it cannot enter the water or cause water quality degradation. No toxic materials shall be allowed to enter the water.
- d. The permittee shall comply with all the conditions of the Mitigated Determination of Non-Significance (MDNS), issued November 11, 1999.
- e. The project must be started within two (2) years of the date of approval or the permit shall become void.
- f. Failure to comply with all conditions of the issued permit may result in its revocation.

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8. Any finding herein which may be deemed a conclusion is hereby adopted as such.

DECISION

The Shoreline Substantial Development Permit is approved, subject to the conditions set forth in Conclusion 7 above.



Wick Dufford, Hearing Examiner

Date of Action: March 8, 2000

Copy transmitted to the Applicant: March 8, 2000

RECONSIDERATION/APPEAL

The decision shall become final five (5) days from the date of this Order unless a request for reconsideration or an appeal is filed in accordance with Section 13.01 of the Skagit County Shoreline Master Program.

After the decision becomes final, review may be sought from the State Shorelines Hearings Board pursuant to the provisions of RCW 90.58.180.

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