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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 Variance Permit Application VA 01 0841

HEARING OFFICER: SKAGIT COUNTY HEARING EXAMINER

APPLICANT: VENDOVI ISLAND, LLC

ASSESSOR PARCEL NO: P46403, P46404, P46940, P46942, P46943, P46949

ABBREVIATED LEGAL DESCRIPTION: Vendovi Island is located on Govt. Lot 1, Section 7, Township 36N, Range 2E; Govt. Lot 1, S13, T 36N, R1E; Govt. Lots 1, 2, 3, 4, 5, 6, 7, S18, T36N, R2E; SE ¼ of NW ¼ S18, T36N, R2E W.M., Skagit County, Washington.

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

FINDINGS, CONCLUSIONS AND DECISION

Applicant: Vendovi Island LLC
% David Fluke
Fluke Capital Management
1140 SE Sixth #230
Bellevue, WA 98004

File No: VA01-0841

Request: Variance

Location: Vendovi Island is located on Govt. Lot 1, Section 7,
Township 36N, Range 2E; Govt. Lot 1, S13, T 36N, R1E;
Govt. Lots 1, 2, 3, 4, 5, 6, 7, S18, T36N, R2E; SE ¼ of NW
¼, S18, T36N, R2E W.M., Skagit County, Washington

Summary of Proposal: The applicant and owner of the Island, Vendovi Island LLC, requests a variance from multiple Skagit County provisions. In summary, the variances are intended to exempt the Island's owners from the provisions that require the island to be served by a fire district in order to obtain building permits or to subdivide property and to exempt the developments from the County's concurrency regulations. Specifically, the applicant requests a variance from the following Skagit County Code (SCC) sections:

SCC 14.16.850(6) Non-issuance of building permits outside of a Fire District.
SCC 14.18.000(5)(h) The proposal shall be located within an official designated boundary of a Skagit County Fire Protection District.
SCC 14.28.030 Concurrency facilities and services in rural areas (County Roads)
Public Water Systems, Police and Fire
SCC 14.28.070(1) Non-transportation Concurrency.

Land Use Designation: *Comprehensive Plan and Zoning: RRv – Rural Reserve*

Public Hearing: After reviewing the report of the Planning and Permit Center, the Hearing Examiner conducted a public hearing on February 13, 2002. Due notice of the hearing was given.

Decision: The application is approved, subject to conditions.



FINDINGS OF FACT

1. Vendovi Island is owned by the Fluke family and is held by an entity called Vendovi Island, LLC. It is managed by Fluke Capital Management. The family requests the variances in order to develop recreational residences for family members consistent with the County's Comprehensive Plan and zoning regulations. The variances are needed to allow reasonable use of the properties and to allow the development of additional family recreational homes as the family grows
2. The subject property is approximately 218 acres in size. The island is located approximately 8 miles north of the City of Anacortes.
3. The island is designated as Rural Reserve by the County's Zoning Ordinance and Comprehensive Plan. Five lot of record certifications have been approved on the subject property. Currently, a caretaker's residence, associated outbuildings and a family residence are located on the Island. Vendovi is an isolated saltwater island with no public ferry service or access by bridge. There are no resource land zoning/comprehensive plan designations on the island.
4. The island is not included within the boundaries of a Skagit County Fire district. At present, the only permanent Island residents are two caretakers. No resident population currently exists that could support the development a Class 8 fire district. The applicant's narrative states that fire protection will be provided within the proposed developments including interior and exterior sprinklers in newly constructed residential structures. The island's existing fire protection facilities include a well used to fill two existing storage tanks, one which holds 1,500 gallons and one which holds 20,000 gallons located at an elevation of approximately 22 feet. The existing system provides 85 pounds per square inch pressure and includes three fire hydrants located near existing structures. Additional hydrants and water will be installed as required by future development. Additional fire protection measures, such as use of noncombustible roofing materials and slash abatement will be established in consultation with the fire marshal at the time of development.
5. Critical Areas staff have indicated that Critical Areas Ordinance review will occur with each actual development permit. The Skagit County Health Department Water Review Division has indicated that development applications and future building permits need to meet Skagit County Code 12.48 and the Skagit County Sea Water Intrusion Policy Resolution 15570. A hydrogeo report addressing seawater intrusion and water quantity issues will be required during review of future development activities on the island. The Skagit County Fire Marshal made the following comments: 1) "I do not feel that the Island being under one ownership has any bearing on the issues and



do not think that should be used as a basis for my office supporting approval or recommending denial of the variance. Property ownerships change and the creation of new lots only adds to the potential for that." 2) "The proponent is correct in their assertion that the restriction on building permits being issued outside of a Fire District to only lots created after 1990, was indeed implemented to help protect the resource lands, specifically the industrial forest resource, from the fire dangers associated with development in what is generally referred to as the urban / wild land interface." 3) "According to the County Zoning map, Vendovi Island has no land designated as resource." 4) "I agree with the proponents that it is not possible on a small island like this, to form a fire district, annex into a fire district or contract for services with a fire district. Considering items 2-4 the Skagit County Fire Marshals Office will not raise any objections to the requested variances of PL01-0841."

6. Skagit County Public Works had no concerns with the proposal.

7. Special circumstances exist here in the current status of electrical power in the area. These circumstances support approving the variance.

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

CONCLUSIONS OF LAW

1. The Hearing Examiner has jurisdiction over the persons and the subject matter of this proceeding. SCC 14.10.020(3).

2. The variance request is exempt from the procedural requirements of the State Environmental Policy Act. WAC 197-11-800(6).

3. The findings above support a conclusion that the proposal is consistent with the applicable variance criteria of SCC 14.10.020(2), if the following conditions are imposed:

1. Subsequent land division applications and future building permits requested on property located on Vendovi Island shall be approved and conditioned as necessary by the Fire Marshal. Review and conditions shall include, but not be limited to, the provision of water supply, hydrants and the installation of building sprinklers pursuant to the National Fire Protection Association 13D (NFPA 13D).
2. The following provisions of Skagit County Code 14.16.850(6)(b)(iii) shall be required for any associated building permit:
 - a.) Approved non-combustible roofing materials must be used.
 - b.) Slash abatement within 200 feet of any portion of the exterior structure



c.) A safety zone cleared of flammable vegetation 30 feet from any portion of the exterior of the structure on ground level and 100 feet downhill on sloped ground.

3. All future development plans shall conform to Skagit County Codes and all pertinent development permits shall be obtained.

4. Conditions numbers 1-3 shall appear on any permit granted to Applicant and on the face of any plat of the subject property.

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

DECISION

The requested variance from SCC 14.16.850(6)(b)(iii), is granted, subject to the condition set forth Conclusion 3 above.


Bradford E. Furlong, Hearing Examiner Pro Tem

Date of Action: March 19, 2002

Copy Transmitted to Applicant: March 19, 2002

RECONSIDERATION/APPEAL

As provided in SCC 14.06.180, a request for reconsideration may be filed with the Planning and Permit Center within 10 days after the date of this decision. As provided in SCC 14.06.120(9), the decision may be appealed to the Board of County Commissioners by filing a written Notice of Appeal with the Planning and Permit Center within 14 days after the date of the decision, or decision on reconsideration, if applicable.

