

## NOTICE OF DECISION

### BEFORE THE SKAGIT COUNTY HEARING EXAMINER

- Applicant:** Lynda Mills  
588 Bell Street, #3506 S  
Seattle, WA 98121
- Request:** Critical Areas Variance, PL18-0097
- Location:** 5140 South Shore Drive, Guemes Island, within Gov't Lot 1,  
Sec. 13, T35N, R1E. W.M.
- Land Use Designation:** Rural Intermediate
- Summary of Proposal:** To replace a collapsed detached garage, located landward of an existing residence. The buffer for a nearby Category II wetland will be reduced to approximately 30 feet. The new garage will occupy the footprint of the pre-existing garage, extending slightly to the east away from the offsite wetland.
- SEPA Compliance:** Exempt
- Public Hearing:** September 26, 2018. Testimony by Planning and Development Services (PDS) staff and applicant's contractor. No public testimony.
- Decision:** The application is approved, subject to conditions.
- Reconsideration/Appeal:** Reconsideration may be requested by filing with PDS within 10 days of this decision. Appeal is to the Board of County Commissioners by filing with PDS within 14 days of this decision or decision on reconsideration if applicable.
- Online Text:** The entire decision can be viewed at:  
[www.skagitcounty.net/hearingexaminer](http://www.skagitcounty.net/hearingexaminer)

## **FINDINGS OF FACT**

1. Lynda Mills, applicant, seeks a Critical Areas Variance for the construction of a replacement garage on residential property on Guemes Island.

2. The project is located at 5140 South Shore Drive on Guemes Island, a portion of Gov't Lot 1, Sec. 13, T35N, R1E, W.M. The Parcel Number is 31482. The zoning of the property is Rural Intermediate.

3. The property is adjacent to second class tidelands on the Guemes Channel within a Rural Residential shoreline designation. The project is permitted by and complies with the local Shoreline Management Program (SMP).

4. The proposed garage is within an A4 flood hazard area and will require a flood development permit.

5. The parcel is approximately 75 feet wide and 425 feet deep. The majority of the site has been cleared and planted in lawn since before the passage of the Critical Areas Ordinance. The home and detached garage were placed in 1960.

6. The existing house contains 1583 square feet of living space and is located 79 feet from the Ordinary High Water Mark (OHWM). The detached garage, now removed after collapse, was situated landward of the house. The garage occupied 560 square feet on a 20-foot by 28-foot footprint.

7. To the west of the subject property is the Peach Preserve, a 64-acre area owned by the San Juan Preservation Trust. The preserve contains a 13-acre freshwater Category II wetland. The wetland buffer extends over nearly the entirety of the lot which is the project site.

8. The proposal is to build a replacement garage covering the footprint of the original garage and extending slightly eastward. The footprint of the new garage will be 24 feet by 24 feet. It will be less than 15 feet high and will include a small area to store garbage and recycle bins. It will not be closer to the shore or to the wetland than the previous garage.

9. A Wetland/Fish and Wildlife Habitat Site Assessment and a mitigation plan were professionally prepared. Because of the small parcel size (.92 acre), the developed residential site was reviewed under the setback standard for high land use impact. Using the habitat score from the Assessment, the optional buffer width for the wetland involved is 150 feet.

10. Accessory structures are common at homes in this area. The proposed garage is permitted outright in the zone. The request here is to reduce the buffer to 30 feet through use of a Hearing Examiner variance.

11. Using the former garage footprint and a small area of pre-existing gravel, the replacement garage will not impose new environmental impacts. As mitigation, the project will include removal of non-native vegetation and installation of native vegetation in two areas. A

Protected Critical Area (PCA) will be designated on the property to protect both the shoreline and the wetland buffer areas surrounding the existing residential development.

12. The site assessment with mitigation plan provides for reasonable development of the property and demonstrates that the proposed project will have the least possible impact on the nearby wetland. The requested variance is the minimum variance that will make possible the reasonable use of the project site.

13. Notice of the proposed developed was posted on the subject property and published and mailed as required by law. Two letters in support of the project were received.

14. The Staff reviewed the application for compliance with relevant variance criteria and determined that, as conditioned, the proposed project would meet the requirements for approval. The Hearing Examiner concurs with this analysis and adopts the same. The Staff Report is by this reference incorporated herein as though fully set forth.

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

### **CONCLUSIONS OF LAW**

1. The Hearing Examiner has jurisdiction over this proceeding. SCC 14.24.140, SCC 14.10.020(3).

2. The application is exempt from the requirements of the State Environmental Policy Act (SEPA).

3. As conditioned, the proposal meets the approval criteria for a critical areas variance, SCC 14.24.140(3), and for variances generally, SCC 14.10.040(d).

4. The granting of the valance will be in harmony with the general purpose and intent of the Unified Development Code and will not be injurious to the neighborhood or otherwise detrimental to public welfare.

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

### **CONDITIONS**

1. The project shall be carried out as described in the application materials, except as the same may be modified by these conditions.

2. The recommendations of Advanced Environmental Solutions shall be considered conditions of approval, except as modified below.

3. Prior to final inspection of the building permits for the garage, all mitigation recommended in the May 4, 2018 plan prepared by advanced Environmental Solutions shall be completed.

4. The applicant shall submit an as-built site plan of the mitigation plantings as well as provide photographs of the installed plants. These items must be submitted within 30 day of plant installation.

5. All mitigation plants shall maintain a survival rate of 100% following the first year and of 80% following years two, three and five.

6. The site shall be maintained to exclude non-native English ivy, Himalayan blackberry, Japanese knotweed and Scotch broom within the mitigation areas.

7. Temporary erosion and sedimentation control measures shall be utilized in accordance with Chapter 14.32 Skagit County Code (Stormwater Management).

8. A Protected Critical Area (PCA) site plan shall be recorded with the County Auditor's office prior to approval of the building permit application.

9. This variance shall expire if the use or activity for which it is granted is not commenced with three years of final approval. Knowledge of the expiration date is the responsibility of the applicant.

10. The applicant shall submit a copy of this decision with the building permit application.

11. If the application proposes any modifications of this proposal, she shall notify Planning and Development Services prior to the start of construction.

12. Failure to comply with any condition of approval may result in permit revocation.

### DECISION

The application for a Critical Areas Variance (PL18-0097) is approved, subject to the conditions set forth above.

**SO ORDERED**, this 4<sup>th</sup>, day of October, 2018.

  
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Wick Dufford, Hearing Examiner

Transmitted to applicant and staff, October 4, 2018.