

NOTICE OF DECISION

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

- Applicants:** Dana Warren & Kathy Feldman
2201 East Newton Street
Seattle, WA 98112
- Agent:** Jodi Boyden
1029 Polte Road
Sedro Woolley, WA 98284
- Requests:** Shorelines Variance—PL18-0635
Critical Areas Variance—PL18-0636
- Location:** 15795 Yokeko Drive, within SW1/4 Sec. 24, T34N, R1E, W.M.;
Parcel No: P64879
- Land Use Designations:** Shorelines: Rural Residential/Shoreline of Statewide Significance
Zoning: Rural Intermediate
- Summary of Proposal:** To replace an existing cabin and deck (678 square-foot footprint) with a new three-story single family residence and deck (1293 square-foot footprint). The new home will have a pitched roof with the peak no more than 35 feet above average grade. The new deck will not extend farther waterward than the existing deck. Small lot size results in request to exceed maximum lot coverage (36.4% developed area on site).
- Public Hearing:** July 24, 2019. Testimony by Planning and Development Services (PDS) staff and by applicant and applicant’s architect.
- Decision/Date:** The application is approved, subject to conditions. August 5, 2019.
- Reconsideration/Appeal:** Shorelines: Reconsideration may be requested by filing with PDS within 5 days of this decision. Appeal is to Board of County Commissioners by filing with PDS within 5 days of this decision, or decision on reconsideration if applicable.
Zoning: Reconsideration may be requested by filing with PDS Within 10 days of this decision. Appeal is to 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

FINDINGS OF FACT

1. Dana Warren and Kathy Feldman (applicants) seek variances in order to replace a cabin with a larger home on the shoreline of the Deception Pass channel.

2. The site is at 15795 Yokeko Drive within the SE1/4, Sec. 24, T34N, R1E, W.M. The parcel number is P64879.

3. The parcel size is only 0.15 acre. It slopes steeply down from Yokeko Drive toward the Ordinary High Water Mark (OHWM). The lot averages 143 feet in length with a width of 34.6 feet at the road and 52.85 feet at the water. There is an approximately 10-foot-high rocky bank above the beach.

4. The vicinity is residential, containing several properties where larger year-round residences have been built to replace previous summer cabins. The new home proposed area will be consistent with this trend. It is intended for full time use. It is designed to blend in aesthetically with the neighborhood.

5. The existing cabin, constructed in 1977, contains 576 square feet of living space with a footprint of 330 square feet. There is a 348 square foot deck. On the east side of the lot and waterward of the cabin is a hot tub and associated platform. Below the home are concrete steps and a small lawn area surrounded by landscape blocks. The cabin and deck are located about 36 feet from the OHWM of Deception Pass. In this area the average shore setback of existing development is 35 feet.

6. The new home will have a footprint of 1012 square feet and a 281-square-foot deck, covering the existing cabin footprint and extending further inland. There will be three levels of living space with an attic for storage. The structure will have a pitched roof of no more than 35 feet in height, oriented perpendicular to the shoreline so as to reduce any potential impacts to neighboring views.

7. On the waterward side the new home and deck will not extend any closer to the OHWM than at present – 36 feet. The hot tub will be relocated under the new deck.

8. The existing septic system was approved and installed in 2006 and is adequate to serve the new house. The septic drain field is located on the upper portion of the lot between the house and the road. There is no space available for a separate drainfield reserve area, but if necessary a repaired system could be located in the same area as the existing drainfield. Because of the location of the drainfield, the new home cannot be located closer to the road.

9. The existing parking area next to the road will continue in use. New steps will be installed on the western side of the property leading from the parking area down to the house.

10. Firs and madronas are scattered about the site and on other properties in the neighborhood. Native vegetation will be retained to the extent possible. Construction of the project will remove four trees. Mitigation planting of trees and shrubs will occur as

recommended in the Fish and Wildlife Habitat Assessment. The present grass area in front of the house will be retained.

11. Drainage management on this small property is challenging. However, the applicants intend an up-to-date drainage system to ensure proper handling of storm water. Details are to be confirmed at the building permit stage.

12. A Notice of Development Application was published on March 14 and March 21, 2019. Notification by mail and posting were also accomplished as required by law. Three comment letters were received. Two supported the proposal; the other objected to the setback and to the 35-foot height. The setback proposed is the same as presently exists. The height objection was made on the assumption there would be a flat roof. Given plans for a pitched roof and its orientation, the applicant is assured there will be no intrusion on existing views.

13. At the Hearing Examiner's hearing no members of the public testified.

14. The application was circulated to County departments. None had adverse comments

15. The Staff analyzed the proposal under both the Shoreline Variance criteria and the Critical Areas Variance criteria. The Staff concluded that, as conditioned, the proposal will be consistent with the relevant approval standards. The Hearing Examiner concurs with the Staff analysis as to both variances sought. The Staff Report is by this reference incorporated herein as though fully set forth. The Examiner specifically adopts the departmental findings as to Shoreline Variances and Critical Areas Variances.

16. The Examiner finds that the redevelopment of this site does not violate the order of preferences for Shorelines of Statewide Significance.

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

CONCLUSIONS OF LAW

1. The Hearing Examiner has jurisdiction of this proceeding. SMP 10.02(3), SCC 14.24.140(1)(b).

2. The proposal is exempt from the procedural requirements of the State Environmental Policy Act (SEPA). WAC 197-11-800(1)(b).

3. As conditioned, the requested project meets the relevant variance criteria. SMP 10.03(1), SCC 14.24.140(3).

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

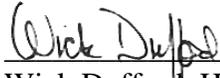
CONDITIONS

1. The project shall be carried out as described in the application materials, except as the same may be modified by these conditions.
2. All required permits shall be obtained and their conditions adhered to.
3. The recommendations of the Fish and Wildlife Habitat and Geologically Hazard Assessments, prepared by Edison Engineering, dated November 8, 2018, shall be deemed conditions of approval.
4. The applicants shall submit an as-built site plan of the mitigation plantings as well as provide photographs of the installed plants. The photographs must be submitted within 30 days of plant installation.
5. All mitigation plants shall maintain a survival rate of 100% following the first year and 85% following years three and five. If the plants do not meet that survival rate, a qualified professional must assess the site and determine the best method to improve the rate of survival for additional native plants.
6. A Protected Critical Area (PCA) site plan shall be recorded with the County Auditor's Office prior to submittal of the building permit application.
7. The applicants shall demonstrate the ability to comply with applicable drainage requirements at the building permit stage. Temporary erosion/sedimentation control measures shall be used in pursuing the project in accordance with Chapter 14.32 SCC (stormwater management).
8. Water availability from the PUD shall be shown at the time of building permit submittal. The site plan must show the location of the water line and ensure that the line meets required setbacks. (Chapters 12.48 and 12.05 SCC).
9. The applicant and its contractors shall comply with all other relevant County and State regulations, including but not limited to, Chapter 173-201A and 173-200 WAC (surface and ground water quality), Chapter 173-60 WAC (noise), Chapter 14.16 SCC (zoning).
10. The Critical Areas Variance shall expire if the use or activity for which it is granted is not commenced within three years of final approval. Knowledge of the expiration date is the responsibility of the applicant.
11. The project shall be commenced within two years of the issuance of the Shoreline Variance and completed within five years thereof.
12. If the applicants propose any modification of the subject proposal, they shall notify Planning and Development Services prior to the start of construction.

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

DECISION

The applications for a Shoreline Variance (PL18-0635) and for a Critical Areas Variance (PL18-0636) are approved, subject to the conditions set forth above.



Wick Dufford, Hearing Examiner

Transmitted to applicant and staff, August 5, 2019.