

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

FINDINGS, CONCLUSIONS AND DECISION

Applicants: Jim Solimano and Karen Marcotte
1419 Seventh Avenue West
Seattle, WA 98119

File No: PL07-0224

Request: Shoreline Substantial Development Permit

Location: 15218 Doris Street, on the shore of Similk Bay,
within a portion of Sec. 19, T34N, R2E, W.M.

Parcel Nos: P73338, P73332

Shoreline Designation: Rural Residential

Summary of Proposal: To install a 15' by 38' swimming pool and a hot tub, trellis, barbeque and shower as accessories to a single residence which is being remodeled. The pool and other items will be located at least 35 feet landward of the Ordinary High Water Mark (OHWM).

Public Hearing: After reviewing the report of Planning and Development Services, the Hearing Examiner conducted a public hearing on April 9, 2008.

Decision: The application is approved, subject to conditions.

FINDINGS OF FACT

1. Jim Solimano and Karen Marcotte (applicants) seek a Shoreline Substantial Development Permit to construct a swimming pool and related accessories at a residence.

2. The home is located at 15218 Doris Street on the shore of Similk Bay. The property is within a portion of Sec.19, T34N, R2E, W.M. The parcel numbers are P73338 and P73332. The shoreline designation is Rural Residential.

3. The site is slightly over two acres in size. The property includes approximately 150 linear feet of shoreline. The area is a Shoreline of Statewide Significance.

4. The accessory uses proposed are part of a larger project to remodel the existing house. The present roofline of the house will be modified to create a more appealing look. The existing brick siding will also be replaced with new stone siding. The remodeling of the house itself is exempt from permit under the Shoreline Management Act.

5. However, the accessories are not exempt and therefore the subject application was filed. The plan is to install a 15' by 18' foot swimming pool on the south (bay)side of the residence. Proximate to the pool will also be a new stone patio and trellis, a new shower/cabana area, a hot tub, and an outdoor fireplace and barbeque area.

6. The local Shoreline Master Program (SMP) establishes a shore setback of 35 feet for accessory uses in the Rural Residential shorelines environment. SMP 7.13(2)(C)(Table RD). All of the proposed accessories are to be at least that far inland.

7. A Fish and Wildlife Site Assessment and an Addendum were professionally prepared and submitted to the County on March 15, 2007. No impact on Similk Bay and minimal impact on the shoreside environment were forecast. A planting plan for the shoreline was developed by a landscape architect. The existing grass lawn on the south side of the house will be removed and replaced with native vegetation.

8. The land/water interface has been stable for years and will not be adversely impacted by the project.

9. The pool will employ a closed system involving ozonation which will make it unnecessary to drain the water. There will be no discharges of treated water from the pool to the bay. If for some reason, it becomes necessary to get rid of water from the pool or hot tub, either gradual infiltration or transfer to a truck and disposal offsite will be employed.

10. After environmental review, the County issued a Mitigated Determination of Non-Significance (MDNS) under the State Environmental Policy Act (SEPA) on February 28, 2008. The MDNS was not appealed. It contained the following conditions:

1. The applicant must obtain a Skagit County Building Permit and receive all the necessary approvals pursuant to Skagit County Codes.
2. The subject proposal shall comply with the Skagit County Shorelines Management Master Program and Shoreline Management Act RCW 90.58.
3. The applicant shall strictly adhere to the project information submitted for this proposal. If the applicant proposes any modifications of the subject proposal, he/she shall apply for a new permit or revision to the existing permit from this office [Planning and Development Services] prior to the start of construction.
4. The approved proposal will utilize the site plan dated 3/12/07.
5. The project shall adhere to all recommendations presented in the Fish and Wildlife Site Assessment report prepared by Rupert Schmitt dated February 21, 2007. The Planting Plan (dated 12-03-07), shall be recorded as a Protected Critical Area at the Skagit County Auditors office prior to approval of a building permit. The Planting Plan shall be implemented within one year of final approval of the associated building permit.
6. The project must be commenced within two (2) years of the date of approval and finished within 5 years or the shoreline permit will become void pursuant to WAC 173-27-090 unless the project is delayed by appeals or final governmental approvals as outlined in WAC 173-27-090(3). It is the responsibility of the applicant to inform local government of the pendency of other permit applications filed with agencies other than local government and of any other related administrative and legal actions on any permit approval.
7. The project will need to comply with the regulations stated in WAC 173-200 & WAC 173-201A.
8. All drainage runoff will be required to meet the requirements of SCC 14.32 the Skagit County Drainage Ordinance.

11. There was no written public comment and no public testimony on this application. The proposal was circulated to County departments and they had no

concerns. Letters encouraging the planting of native vegetation and expressing concerns over the possible discovery of cultural artifacts were received from area Indian tribes.

12. The Staff Report analyzed the application in light of the special policies set forth in the Shoreline Management Act for Shorelines of Statewide Significance and determined that none of the policies elevating state interests over local ones would be violated by this development. The Hearing Examiner agrees and so finds.

13. The Staff Report analyzed the proposal in light of the SMP regulations for residential development and concluded that all of the dimensional requirements are met, and that, as conditioned, the project will meet all substantive requirements of the SMP. Again the Examiner concurs and adopts the Staff's reasoning. The Staff Report is by this reference incorporated herein as though fully set forth.

14. The project will improve the appearance of the residence. The proposed accessories will scarcely be visible from the water. The immediate shoreside area will be planted with native vegetation. A PCA will be established. No shoreline management values will be interfered with.

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 the persons and the subject matter of this proceeding. SMP 9.06.

2. The requirements of SEPA have been met.

3. The proposal, as conditioned, will comply with the Critical Areas Ordinance. Chapter 14.24 SCC.

4. A permit is needed for the accessory uses involved here because they do not fall within an explicit permit exemption. They are not listed as "normal appurtenances." See WAC 173-27-040(2)(g).

5. The policies enumerated in RCW 90.58.020 for Shorelines of Statewide Significant will not be violated.

6. The relevant policies of the Shoreline Management Act, and the regulations of the Department of Ecology and local master program will be complied with. As conditioned, the proposal meets the criteria for approval of a Shoreline Substantial Development Permit. SMP 9.02.

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

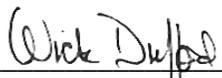
CONDITIONS

1. The project shall be constructed as described in the application materials, except as the same may be modified by these conditions.
2. The applicants shall obtain all other necessary permits and comply with the conditions thereof.
3. The applicants shall comply with all conditions of the MDNS issued by the County on February 28, 2008. (See Finding 10.)
4. If cultural artifacts are encountered during construction, all construction activity on the site shall cease and the applicants shall immediately notify Planning and Development Services (PDS). Construction, thereafter, shall not proceed until an archeological assessment is completed and appropriate steps are taken to preserve the resources.
5. Failure to comply with any condition may result in permit revocation.

DECISION

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

DONE this 21, day of April, 2008.



Wick Dufford, Hearing Examiner

RECONSIDERATION/APPEAL

As provided in the Skagit County Shoreline Master Program, Section 13.01, a request for reconsideration may be filed with Planning and Development Services within five (5) days after the date of this decision. The decision may be appealed to the Board of County Commissioners by filing a written Notice of Appeal with Planning and Development Services within five (5) days after the date of decision or decision on reconsideration, if applicable.