

NOTICE OF DECISION

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

Applicants: Kristine Wallen & Craig Loveland
2019 East Lynn Street
Seattle, WA 98112

Agent: John Ravnik
Ravnik and Associates
P. O. Box 361
Burlington, WA 98233

Request/File No: Shoreline Substantial Development Permit PL12-0369

Location: Samish Island at 9921 Seacrest Lane, located within SE 1/4 Sec. 27, T36N, R2E, W.M. (Parcel No. 66126)

Shoreline Designation: Rural Residential

Summary of Proposal: To build a permanent stairway for beach access on the shore of Samish Bay. The home is shoreward of a steep 35-foot bank. The proposed stairs will extend down the bank from the upland to the top of a large boulder on the beach. Adjacent to the boulder will be a platform with a retractable or removable stair assembly for accessing beach grade.

SEPA Compliance: Mitigated Determination of Non-Significance (MDNS) issued December 20, 2012. No appeal

Public Hearing: March 27, 2013. No public testimony. Planning and Development Services (PDS) recommended approval.

Decision: The application is approved, subject to conditions.

Reconsideration/Appeal: A Request for Reconsideration may be filed with PDS within 5 days of this decision. The decision may be appealed to the Board of County Commissioners by filing an Appeal with PDS within 5 days of the date of decision or decision on reconsideration, if applicable.

Online Text The entire decision can be viewed at [www.skagitcounty.net/hearing examiner](http://www.skagitcounty.net/hearing_examiner)

FINDINGS OF FACT

1. Kristine Wallen and Craig Loveland, applicants, seek a Shoreline Substantial Development Permit, to build a beach access structure down the bank in front of their home on the shore of Samish Bay.

2. The site is at 9921 Seacrest Lane on Samish Island within the SE 1/4 Sec 27, T36N, R2E, W.M. The property is located within a shoreline area designated as Rural Residential under the local Shoreline Master Program (SMP).

3. The property is approximately 0.75 acres in size, measuring approximately 263 feet north- south and about 150 feet east-west. The east-west dimension includes a steep shoreside bank -- about 38 feet high near the east sideline and about 32 feet high near the west sideline.

4. The proposal is to install a stairway commencing at a small concrete landing on the top of the bank and extending northerly down to a large rock embedded in the beach. The top of this rock is above the Ordinary High Water Mark (OHWM). At the lower end of the stairs, a platform will be built from which a retractable or removable stair assembly will extend to beach grade.

5. There is a 2600 square-foot residence and a 630 foot carport on the relatively flat ground behind the top of the bank. The area between the top of the bank and the home is in lawn. The bank is vegetated with a mixture of native and non-native trees and shrubs. There is nothing in the appearance of the bank or the vegetation that suggests slope instability.

6. The upper permanent stair assembly will consist of two glu-lam wood beams with four-foot-wide steps in between and hand rails on each side. The assembly will be approximately 50-feet long and prefabricated. Installation will be with a small crane operating on the upland. Because it will be suspended, the structure will produce very limited impacts to the existing vegetation of the slope. The upper and lower platforms will total less than 200 square feet. The proposal does not include the installation of utilities.

7. Bluff stability was reviewed by a licensed professional geologist from GeoTest Services, Inc., who found no evidence of recent landslide activity, other than a minor area of failure due to placement of yard debris on the slope. The base of the slope does not indicate significant erosion. There is existing riprap at the base of the bluff, but no additional structural defense works are proposed.

8. The beach on the north side of Samish Island has in the past experienced some sediment deprivation, leading residents to participate in a beach nourishment program east of the project site in the late 1990's. The proposed structure will have only a minor temporary impact on shore processes when the stairs are lowered to the beach. There is not likely to be any appreciable adverse impact to drift sectors or accretion shore forms.

9. The project is within a fish and wildlife habitat conservation area and, therefore, subject to the County's Critical Areas Ordinance. A Fish and Wildlife Site Assessment was

prepared by Aqua-Terr Systems, Inc. (ATSI). Their report noted that about 302 square feet of critical areas buffer will be impacted by the cutting of native vegetation. The recommended mitigation was for 302 square feet of buffer enhancement by clearing blackberries and planting suggested native shrubs.

10. A small portion of the project is within a V4 designated flood hazard area. The retractable or removable lower portion of the project will avoid the need for flood protection works.

11. The proposed beach access structure is a shoreline dependent development, needed for access to the beach and the bay. The side setback requirements will be met. Numerous adjacent landowners have constructed beach access structures down the bluff in this area.

12. Environmental review of the proposal was conducted pursuant to the State Environmental Policy Act (SEPA). A Mitigated Determination of Non-Significant (MDNS) was issued on December 20, 2012. The MDNS was not appealed. Conditions were imposed as follows:

- a. Temporary erosion/sedimentation control measures, as approved by Skagit County Public Works, shall be in place prior to the disturbance of the site. The applicant shall maintain all temporary erosion /sedimentation control measures in accordance with the Skagit County Drainage Ordinance. Said measures shall remain in place until completion of the project.
- b. The applicant shall comply with the provisions of the Skagit County Code (SCC) 14.32 (Drainage Ordinance).
- c. The applicant shall comply with all relevant provisions of SCC 14.24 (Critical Areas Ordinance).
- d. The applicant shall abide by the recommendations of the Critical Areas Assessment prepared by ATSI, dated October 2012.
- e. The applicant shall abide by the recommendations in the report prepared by Geotest, Inc. Dated, September 14, 2012.
- f. The applicant shall receive all applicable state and federal permits before beginning any phase of construction.

13. Notice of Development Application was published on November 8, 2012 and November 15, 2012. Notification by mail was provided as required by law. No public comments were received. There was no public testimony at the hearing.

14. The proposal was reviewed by the various County departments. The Building Official noted that a floodplain development permit and a building permit are required for this proposal. No departmental objections to the project were made.

15. The Staff Report reviews the proposal in light of the local SMP policies and regulations, and concludes that, as conditioned, the project will be consistent with the Shoreline Management Act, the local Master Program and applicable State rules. 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.

16. 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 subject matter of this proceeding. SMP 9.06.

2. The requirements of SEPA have been met.

3. The proposal is for an accessory use (not a normal appurtenance) and requires a Shoreline Substantial Development Permit.

4. The proposal, as conditioned, is consistent with the criteria for the granting of a Shoreline Substantial Development Permit. It is consistent with the policies and regulations of the local SMP, with applicable State policies, and with the policies of the Shoreline Management Act. SMP 9.02(1).

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 applicants shall obtain all other required permits and approvals and shall abide by the conditions of same.

3. The applicants shall comply with all conditions of the MDNS issued December 12, 2012. (See Finding 12 above).

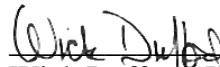
4. All mitigation plants shall be installed prior to final inspection of the required building permit. The applicant shall submit an as-built site plan of the mitigation plantings as well as provide photographs of the installed plants. The plan and photographs must be submitted within 30 days of plant installation.

5. All mitigation plants shall maintain a survival rate of 100% following the first year and 80% 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. The applicants shall comply with all applicable State, Federal and local regulations.
7. This approval is for construction of a beach access stairway only. Maintenance of the riprap bulkhead or other activities adjacent to the shoreline is not part of this approval.
8. The applicant shall submit a copy of this decision with the building permit application.
9. The project shall be commenced within two (2) years of the approval of this Shoreline Substantial Development Permit and shall be completed within five (5) years thereof.
10. The applicant shall strictly adhere to the application materials submitted. If any modifications are proposed, the appropriate permit revision process shall be followed.
11. Failure to comply with any condition may result in permit revocation.

DECISION

The requested Shoreline Substantial Development Permit (PL-12-0369) is approved, subject to the conditions set forth above.



Wick Dufford, Hearing Examiner

Transmitted to Applicants, April 4, 2013

See Notice of Decision, Page 1, for Reconsideration and Appeal information.