

NOTICE OF DECISION

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

Applicant: Todd and Anna Wright
P. O. Box 177
Clear Lake, WA 98235

Request: Shoreline Variance/Substantial Development, PL16-0392
Critical Areas Variance, PL16-0393

Location: 12464 East Lake Drive near Clear Lake, within the NW1/4
Sec. 6, T34N, R5E, W.M. Parcel Nos: P64482 & P30135

Land Use Designation: Shoreline: Rural Residential
Zoning: Rural Village Residential

Summary of Proposal: Replacement of existing residence and septic drainfield,
construction of a shop with second story office space,
construction of a retaining wall spanning both parcels

SEPA Compliance: Mitigated Determination of Non-Significance (MDNS), dated
December 13, 2016. No appeals.

Public Hearing: April 12, 2017. Testimony by Planning and Development Services
(PDS) staff and by Applicant Todd Wright. No public testimony.

Decision/Date: The application is approved, subject to conditions. May 3, 2017.

Reconsideration/Appeal: Shorelines: Reconsideration may be requested by filing with PDS
within 5 days of this decision. Appeal is to County Commissioners
by filing with PDS within 5 day of this decision, or decision on
reconsideration if applicable.
Critical Areas: Reconsideration may be requested by filing with
PDS within 10 days of this decision. Appeal is to 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. Todd and Anna Wright seek to make improvements to their property on the shore of Clear Lake.
2. The site is at 12464 East Lake Drive near the community of Clear Lake. Two parcels are involved: P64482 and P30135. The parcels are situated within the NW1/4 Sec. 6, T34N, R5E, W.M.
3. The parcels surrounding the site contain single family residential and accessory structures. Most properties also have a recreational dock.
4. The subject property contains a single family residence built in 1966 on Parcel 64482. The house contains 1720 square feet of living space, and has a 682 square foot partially enclosed carport and 600 square feet of concrete patios. There is a cabin on P30135, also built in 1966 which contains 352 square feet of living space.
5. The existing house is 29 feet from the Ordinary High Water Mark (OHWM) of Clear Lake. (It is also 32 feet from a non-fish bearing and seasonal stream.) The cabin is about 50 feet from the OHWM. There is a recreational dock attached to P30135 which serves both lots.
6. The applicants wish to replace the house with a new dwelling having a footprint of 2101 square feet. It will include 598 square feet of patios. The attached garage will occupy 541 square feet. The replacement house will remain 29 feet from the lake's OHWM and 32 feet from the stream.
7. Also included in the plan is a new shop, located 132 feet from the lake and 33 feet from the stream. The new shop building will have a footprint of 1152 square feet and will contain a second story.
8. The residential setback from the shore under the local Shoreline Master Program (SMP) is 50 feet from the OHWM. The Critical Areas buffer is 100 feet from the OHWM.
8. The new house will exceed the 30-foot height limit by approximately one foot six inches. The shop will have a second story to be used temporarily as a living space until the replacement residence is built. This space will then be converted into a home office. Because of the second floor, the shop will exceed the 15-foot height limit for a residential accessory structure.
9. A retaining wall, located between the shore and the house, is proposed to extend 137 feet from an existing wall on P64482. The wall will cross most of P30135. It will be no more than four feet high and will be placed no closer than six feet from the OHWM of the lake. The wall is not intended for shore defense or flood protection. No fill material will be placed waterward of the wall. Installing the wall will allow the historically landscaped portion of the site to be more accessible for recreation.

10. A portion of the site is within an A7 designated flood hazard area (FIRM map panel 0275C). The proposed home is being designed to comply with applicable floodplain development regulations.

11. The new residence will be served by a new septic system that is currently under design. A replacement drainfield and reserve area is proposed to be located about 10 feet from the stream. The septic system, drainfield and a stormwater drainage plan will be approved prior to flood plain development permit and building permit submittals.

12. The property is accessed and will continue to be accessed by an existing driveway. There is adequate area for parking between the proposed residence and proposed shop.

13. The subject lots are both sloped from East Lake Drive toward the lake at an average of 21.5 percent. The area farther from the shore is sloped at approximately 46 percent. Mature native conifers cover this slope. Existing access and topography restrict the possible location of structures. Indeed, the shop structure footprint will be cut into the steep surrounding grade.

14. There are four homes within 300 feet of the subject site. The average setback of those homes is 117 feet from the OHWM of Clear Lake. This appears to be the result of local topography. The reduced shore setback requested here is the result of lot size, site topography and existing development.

15. The side and rear areas of the site are vegetated with mature conifers and shrubs which provide screening from neighboring properties. The height of the proposed structures will cause no view blockage. The area between the home and the lake will be enhanced with native vegetation to provide some screening from the lake.

16. The size of the proposed new home is closely comparable to other homes in the neighborhood. Most nearby homes also have accessory uses near the shore. This project will not adversely affect the uses of adjacent properties. The development proposed is typical of the area.

17. In connection with the Critical Areas variance, a Fish and Wildlife Habitat Assessment with a mitigation plan was prepared by Edison Engineering using best available science. Their report concludes that the development will not adversely impact the functions and values of the critical area buffers.

18. The application was circulated to County departments. None objected. Their comments are reflected in conditions of approval.

19. Environmental review resulted in the issuance of a Mitigated Determination of Non-Significance (MDNS) on December 13, 2016. The MDNS was not appealed. The conditions of the MDNS required compliance with the recommendations of the Fish and Wildlife Habitat Assessment and compliance with various County ordinances, including the Critical Areas Ordinance, the Shoreline Management Master Program, the Stormwater Management chapter, and the Flood Damage Prevention Ordinance.

20. Based on site topography and existing infrastructure, the Examiner finds that proposed development location is the minimum variance necessary to allow for reasonable development of the property. The additional height proposed will have a negligible impact. The project, as conditioned, will not create a significant adverse effect on critical areas, nor will it be detrimental to the public welfare. .

21. The remaining buffer areas associated with the lake shoreline will be designated as Protect Critical Areas. These areas will be enhanced using native vegetation.

22. The Staff Report analyzes the application for compliance with applicable development and variance criteria and concludes that the proposal, as conditioned, will be consistent with those criteria. The Hearing Examiner concurs in this analysis and adopts the same. The Staff Report is by this reference incorporated herein as though fully set forth.

23. 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. SMP 8.07, SCC 14.10.020(3).

2. The requirements of SEPA have been met.

3. The proposal, as conditioned, meets the criteria for approval of a Shoreline Substantial Development and Shoreline Variance Permit. SMP 9.02. 10,03(1).

4. The proposal as conditioned meets the criteria for a Critical Areas Variance. SCC 14.24.140(3), 14.10.040.

5. The granting of the variances will be in harmony with the general purpose and intent of the Unified Development Code and other applicable provisions of the Skagit County Code, and will not be injurious to the neighborhood, or otherwise detrimental to public welfare.

6. 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 may be modified by these conditions.

2. The applicants shall obtain all other required permits and abide by the conditions of same. This includes, but is not necessarily limited to, a floodplain development permit and building permits.

3. A copy of this decision shall be submitted with all subsequent County permits.
4. The applicants shall comply with the conditions of the MDNS, issued December 13, 2016.
5. The recommendations of the Edison Engineering site assessment, dated August 14, 2015, shall be considered conditions of approval unless modified by the conditions below.
6. The mitigation must happen concurrently with redevelopment of the site and must be completed prior to final inspection of the building permit for the replacement house.
7. The applicants shall submit an as-built site plan of the mitigation plantings as well as provide photographs of the installed plants. Thus must be submitted within 30 days of plant installation.
8. 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 determined the best method to improve the rate of survival for additional native plants.
9. A Protected Critical Area (PCA) site plan shall be recorded with the County Auditor's office prior to submittal of the first building permit application.
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. (SCC 14.24.140(6)).
11. The applicants and their contractors shall comply with applicable State regulations, including but not limited to Chapters 173-201A and 173-200 WAC (Water Quality Criteria for Surface and Ground Water); Chapter 173-60 WAC (Maximum Environmental Noise levels).
12. Temporary erosion/sedimentation control measures shall be used in accordance with Chapter 14.32 Skagit County Code (SCC).
13. The applicants shall comply with any requirements that may be imposed by the Skagit County Fire Marshal.
14. The applicants shall obtain approval of the proposed septic system prior to submittal of building permit applications. Setback from water lines must be maintained pursuant to Chapter 12.48 SCC. A current signed invoice from the Public Utility District will be required at the time of building permit application.
15. For purposes of shoreline approval, the project shall be commenced within two years of final approval of the Shoreline Variance and shall be completed within five years thereof.

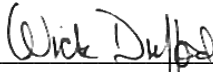
16. If the applicants propose any modification of the subject proposal, they shall notify Planning and Development Services (PDS) prior to the start of construction.

17. Failure to comply with any conditions of approval may result in permit revocation.

DECISION

The Shoreline Substantial Development/Shoreline Variance application (PL16-0392) and Critical Areas Variance application (PL16-03493) are approved, subject to the conditions set forth above.

SO ORDERED, this 3rd day of May, 2017.



Wick Dufford, Hearing Examiner

Transmitted to Applicants: May 3, 2017

See Notice of Decision, page, 1 for appeal information.