

BEFORE THE SKAGIT COUNTY HEARING EXAMINER
FINDINGS, CONCLUSIONS AND DECISION

Applicant: Herbert Goldston
4465 Samish Point Road
Bow, WA 98232

File No: PL06-1133

Request: Shoreline Substantial Development Permit

Location: 4465 Samish Point Road, within a portion of Secs. 27 & 28, T36N, R2E, W.M.

Shoreline Designation: Rural

Summary of Proposal: To install an elevator for access from the top of the bank to the beach. The system will span approximately 186 linear feet without impacting the bank. A gazebo will be located at the top. The lower cable lift anchor will be secured landward of the existing bulkhead.

Public Hearing: After reviewing the report of Planning and Development Services, the Hearing Examiner conducted a public hearing on July 11,2007.

Decision: The application is approved, subject to conditions.

FINDINGS OF FACT

1. Herbert Goldston (applicant) seeks a permit to install a cable lift system for access up and down the bank at his residential property on Samish Bay.

2. The address is 4465 Samish Point Road, south of Point William on the eastern part of Samish Island. The property is within a portion of Secs. 27 and 28, T36N, R2E, W.M. The shoreline is designated Rural in the Shoreline Master Program (SMP).

3. The property is 23 acres in size with 1,000 feet of high bank waterfront facing the northeast. The bluff rises 120 feet above sea level and has an average slope of 87% (41 degrees). The top of the bank is less than 200 feet back from the Ordinary High Water Mark (OHWM).

4. The proposal is to install an elevator that will transport people from the top of the bank to the beach. At the beach level is an existing wood pile bulkhead that has apparently functioned effectively as an erosion control feature. The foot of the lift system will be landward of the bulkhead.

5. At the upper end of the lift will be a pair of anchored rails that will support a winch, hoisting mechanism, and loading deck. The cantilevered waterward side of this deck will be supported on two 24-inch-diameter concrete piles that will in turn be supported by three 3-inch pipe pin piles driven to the point of practical refusal. The landward end of the loading deck will be supported by the motor box – a concrete structure seven feet wide and 3.5 feet deep that is to be buried. A 16-foot diameter octagonal gazebo and attached awning will house the loading deck. The gazebo will be less than 15 feet high.

4. The lower anchor of the system will be provided by a 6-foot wide by 10-foot long concrete block with a depth ranging from one to four feet. The anchor will be buried behind the bulkhead so that its concrete top is level with or just above the soil around it. The support cables will extend upslope from the waterward side of the anchor.

5. The cables will transport a box-like four-foot square gondola. They will be positioned so that the gondola does not touch the bank at any point in its path. The effect will be no disturbance to the bank. The bank is heavily vegetated, but the lift path will be in an area that is largely clear, so that no trees will have to be removed and only a minor amount of pruning or clearing will be necessary. The lift will terminate about four feet above the OHWM.

6. The bank along the property is known to be unstable. The applicant has been living at the site for 30 years and observed significant slides in 1980 and 1990. No slides have occurred since placement of the bulkhead along the toe of the bluff, but one

previous slide area shows continued instability. No slides have occurred in the area where the lift is proposed.

7. A Geo-Technical Report prepared by Edison Engineering is dated April 10, 2007. The report identified soils at the project location and tested them for soil strength. The report determined that the lift system as proposed “will be founded on soil that will remain stable for the proposed 50-year life of the structure.” The report noted that the upper lift deck, motor box and gazebo could be moved back to a new location if the supporting soils were to fail.

8. The Geo-Technical Report was accompanied by a Fish and Wildlife Assessment that concluded that no significant environmental impact is likely from the project.

9. There is an existing approximately 800-foot trail down the bank that provides the present means of beach access from the residence. The trail traverses several areas of bank instability. The cable lift will remove the need for the trail, eliminate most of the traffic on it, and significantly reduce the exacerbation its use causes to the less stable areas.

10. The cable lift system will be built by Accumar Corporation, a Washington company that specializes in such structures for waterfront properties. Scott Sprague, speaking for the company, stated that the applicant’s proposal is similar to one already installed for a neighbor which has functioned without problems. He said that a slide could occur on the bank without affecting the lift. He noted that moving the upper lift assembly further back has almost never been shown to be necessary.

11. Because of the heavy vegetation, the visual impact of the lift will be almost nil.

12. The Staff has concluded that the proposed lift system is a “shoreline dependent use” because its functional nature requires a shoreline location. The Examiner concurs.

13. There was no opposition to the application. The record contains a letter from a neighbor strongly supporting the project. The neighbor has installed a similar tram and believes it to be “the most environmentally friendly thing to do.”

14. Any conclusion herein which is deemed to be 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 proposal is exempt from the procedural requirements of the State Environmental Policy Act (SEPA). WAC 197-11-800(1)
3. Under the Shoreline Management Act and local SMP, the proposed installation is a “substantial development” and requires a Shoreline Substantial Development Permit. See RCW 90.58.030(3).
4. The SMP allows Substantial Development Permits to be issued only when the project is consistent with the policies and regulations of the SMP, the policies of the Shoreline Management Act, and the shorelines regulations adopted by the Department of Ecology (DOE). SMP 9.02.
5. In this case, the policies of the Act and the regulations of DOE are adequately carried out by the provisions of the local SMP.
6. The development proposed is a type of residential accessory. Such uses need not meet the standard shore setbacks if they are “clearly shoreline dependent.” SMP 7.13(1)(D)(7). The subject development is for such a use.
7. The general policies and regulations of the SMP regarding residential development seek to preserve natural shoreline features and protect aesthetic values. See SMP 7.13 generally. The proposed development is characterized by environmental sensitivity and is consistent with the SMP residential development requirements.
8. As conditioned, the proposal meets the criteria for approval on a Shoreline Substantial Development Permit.
9. Any finding herein which may be deemed a conclusion is hereby adopted as such.

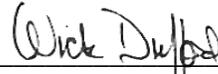
CONDITIONS

1. The project shall be constructed as described in the application materials.
2. The recommendations of the Geotechnical Site Reconnaissance by Western Geotechnical Consultants, Inc., dated May 11, 2006, shall be followed. The recommendations of Fish and Wildlife Habitat and Geohazard Assessments by Edison Engineering, dated April 10, 2007, shall be followed.

3. Best management practices shall be used to avoid unnecessary sedimentation to the marine shore during and after construction.
4. The project shall be started within two years of the date of final permit approval and shall be finished within five years thereof or the permit shall become void.
5. Any failure to comply with a condition of permit approval may result in permit revocation.

DECISION

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



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.