

## NOTICE OF DECISION

### BEFORE THE SKAGIT COUNTY HEARING EXAMINER

**Applicant:** Lake 16 LLC/Plats Plus Inc.  
Mark Kaushagen  
2440 West Commodore Way #200  
Seattle, WA 98199

**Contact:** Karen Burroughs/Gary Johnson  
P. O. Box 31307  
Bellingham, WA 98228-3307

**Request:** Shoreline Substantial Development Permit, PL19-0017

**Location:** Northwest shore of Lake Sixteen, near 20451 Sinnes Road, within SE1/4 Sec. 16, T33N, R4E, W.M.

**Shoreline Designation:** Conservancy

**Summary of Proposal:** To build a community dock for use by homeowners of newly created Cascade Highlands subdivision. The dock will be 8' wide x 56' pier with a 12' x 20' float attached at the waterward end.

**Public Hearing:** August 28, 2019. Testimony by Planning and Development Services (PDS) staff and by applicants consultant. No public Testimony.

**Decision/date:** The application is approved, subject to conditions.  
September 12, 2019

**Reconsideration/Appeal:** Reconsideration may be requested by filing with PDS within 5 days of this decision. Appeal is to the Board of County Commissioners by filing with PDS within 5 days of this decision or decision on reconsideration if applicable.

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

## **FINDINGS OF FACT**

1. Lake 16 LLC/Plats Plus Inc. has applied for a Shoreline Substantial Development Permit to build a community dock on Lake Sixteen. The dock is intended for use by the homeowners of the newly created Cascade Highlands subdivision.

2. The site is on the northwest shore of the lake, accessed by pedestrian trail from the subdivision. The location is near 20451 Sinnes Road, within the SE ¼ Sec. 16, T33N, R4E, W.M. This is within a Zone A designated flood hazard area.

3. The lake is about 43.3 acres in size with a maximum depth of 23 feet. The shoreline designation for the site is Conservancy. Gas powered motors are not allowed on the lake. The speed limit for the entire lake is five (5) miles per hour.

4. Several residences and associated docks exist in the southwest portion of the lake, but a majority of the shoreline is undeveloped and forested.

5. The Skagit Valley YMCA owns Camp Anderson on the northeast side of the lake and there is a dock associated with the camp. One other community dock, serving the Cedar Ridge Estates subdivision, is present at the southeast end of the lake. The Washington Department of Fish and Wildlife (WDFW) manages a boat launch at the south end of the lake.

6. In total, the Lake 16 LLC ownership comprises 61.64 acres. Two phases of the subdivision, creating 32 new residential lots, were recorded on April 19, 2019. One more phase of the land division is pending and will include up to an additional 25 lots. None of the lots include private waterfront access. As part of the land division an old gravel road near the shoreline was blocked and narrowed to provide pedestrian access only. Homeowners will use this trail to reach the new dock.

7. Limiting access to a pedestrian trail will avoid most impacts on the shore. Materials for building the dock will be brought in by barge. Installation will be by hand. A vibratory hammer will be used for pile driving.

8. The proposed dock will include an 8' x 56' fixed pier built of welded steel tubing supported by steel pilings. Decking will be fiberglass micro-mesh grating. The pier portion will be a minimum of 1.5 feet above the ordinary high water mark.

9. A 12' x 20' float will be placed at the end of the pier. The float will be constructed of steel trusses with molded vinyl covered floatation. The decking of the float will consist of fiberglass micro-mesh grating to allow light penetration. The float will be secured to steel pilings.

10. Mitigation of impacts will consist of weed control and supplemental planting of native trees and shrubs within an area along the shore of about 3500 square feet. This will

improve bank stability and provide additional shade. Old dock debris will be removed from the lake and the shore.

11. There will be adequate parking for project construction along existing Scout Camp lane. On completion, the project will not adversely impact the aesthetics of the area.

12. A Notice of Development Application was published on March 7 and 14, 2019. Notification by mail was provided to property owners within 300 feet of the subject property. One email comment was received urging denial and arguing that the dock will change the character of the lake and allow for exclusive access by the development's residents only.

13. The Examiner is persuaded that any change in the character of the lake will be minor and, as such, an insufficient basis for denial of the application.

14. A Determination of Non-Significance (DNS) under the State Environmental Policy Act (SEPA) was issued on May 7, 2019. No comments were received. The DNS was not appealed.

15. A Fish and Wildlife Habitat Site Assessment was prepared by Cantrell and Associates. The dock will have a permanent impact on about 384 square feet of shoreline buffer. As noted, supplemental plantings and removal of invasive species will compensate for this impact. The Assessment's overall conclusion was that the project will not have an adverse impact on habitat functions and values.

16. The proposal will require a Hydraulic Project Approval (HPA) from the Washington Department of Fish and Wildlife. Critical areas review will be completed by jurisdictional substitution (SCC 14.24.040(3)).

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

18. Docks and floats are permitted on Conservancy shorelines by the local Shoreline Master Program (SMP). The Staff reviewed the proposal under the applicable shoreline regulations and concluded that the project, as conditioned, will be consistent with shoreline development requirements. 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.

19. 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 9.06.
2. The requirements of the State Environmental Policy Act have been met.
3. The project, as conditioned, is consistent with the criteria for a Shoreline Substantial Development Permit. SMP 9.02.

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 Site Assessment prepared by Cantrell & Associates, Inc. dated December 19, 2018, shall be deemed conditions of approval.

4. The applicant shall submit an as-built plan of the mitigation plantings as well as provide photographs of the installed plants. The plan and photos shall be submitted within 30 days of plant installation.

5. The mitigation proposed must be completed no later than November 30, 2019.

6. 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.

7. Temporary erosion/sedimentation control measures shall be used in accordance with Chapter 14.32 SCC (stormwater management).

8. The applicant and its contractors shall comply with all other relevant County and State regulations, including but not limited to Chapters 173-201A and 173-200 WAC (surface and ground water quality), Chapter 173-60 WAC (noise), Chapter 14.16 SCC (zoning).

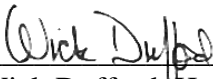
9. The project shall be commenced within two years of shoreline permit approval and completed within five years thereof.

10. If the applicant proposes any modification of the subject proposal, it shall notify Planning and Development Services prior to the start of construction.

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

#### **DECISION**

The application for a Shoreline Substantial Development Permit (PL19-0017) is approved, subject to the conditions set forth above.

  
\_\_\_\_\_  
Wick Dufford, Hearing Examiner

Transmitted to applicant, contact persons, and staff, September 12, 2019