

NOTICE OF DECISION

BEFORE THE SKAGIT COUNTY HEARING EXAMNER

Applicant: Ryan and Kelsey Huerter
17449 Mallard Cove Lane #B
Mount Vernon, WA 98274

Requests: Critical Areas Variance, PL21-0290
Zoning Variance, PL21-0291
Shoreline Variance, PL21-0292

Location: Lake View Boulevard on the east side of Big Lake, within NW1/4
Sec. 36. T34N, R4E, W.M.. Parcel No. P64436

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

Summary of Proposal: To construct a new single-family residence on a vacant lakeside parcel. The house will contain approximately 2800 square feet with two-stories over a basement and include a two-car garage. The home will be 28'4" from the Ordinary High Water Mark of the lake and 15 feet from the edge of the road right-of-way.

Public Hearing: December 22, 2021. Testimony by Planning and Development Services (PDS) staff, Applicant and a witness for Applicant.

Decision: The application is approved, subject to conditions.

Reconsideration/Appeal: Zoning: Reconsideration may be requested by filing with PDS within 10 days of this decision. Appeal is to the Board of County Commissioners by filing with PDS within 14 days of this decision, or decision on reconsideration if applicable.
Shorelines: 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.

FINDINGS OF FACT

1. Ryan and Kelsey Huerter seek variances to allow them to build a single-family residence on the east shore of Big Lake.
2. The home will be located on Lake View Boulevard on a vacant lot containing only 4,747 square feet. The site is within NW1/4 Sec. 36, T34N, R4E. W.M. The parcel number is P64436.
3. The site is designation Rural Residential in the Skagit County Shoreline Management Master Program (SMP) and Rural Village Residential on the Comprehensive Plan and Zoning maps.
4. The parcel was created by land division in 1927. The lot was modestly increased in size by adding a portion of the neighboring lot in about 1986. The entire parcel is within the 100-foot critical area buffer from the lakeshore.
5. The lot slopes from the road on the east property line down to the lake. It has been maintained as lawn with invasive species on the slope near the road. The shore is composed of sand and gravel. There is an existing dock.
6. The immediate neighborhood contains established homes of a size comparable to the proposal. The average setback of residences within 300 feet of the property is approximately 28 feet from the Ordinary High Water Mark (OHWM). The proposed new home will be located a minimum of 28 feet and four inches from the OHWM.
7. The proposed development will encroach upon the 50-foot shoreline setback and be entirely within the 100-foot critical areas buffer from the lakeshore. On the road side, the new home, including the garage, will be set back 15 feet from the right-of-way, encroaching on the 35-foot minimum.
8. The new home will have two stories over a basement. The height of the new home will not exceed 30 feet above average grade and the overall developed area onsite will not exceed 30%. The side setbacks will meet the eight-foot regulatory minimum.
9. A Fish and Wildlife Habitat Assessment was prepared for the property by Edison Engineering. It contains a Critical Area Site Plan. Plantings were recommended to mitigate impacts.
10. The small size of the lot severely constrains the building possibilities, precluding the construction of a home comparable to neighboring homes without the variances sought.
11. Public Works opposes the requested 15-foot setback from the right-of-way. It has a policy for the area calling for a 20-foot setback.

12. The history of development in the area has created a pattern where a 15-foot setback is more the rule than the exception. Some properties provide even less than that.

13. The evidence supports a finding that vehicles will be able to park by this property and garage without encroaching on the travelled paving. The testimony was that parking will be accommodated well off the roadway.

14. A letter was received from neighbors inland of the property who said that if the proposed house is two stories high it will block their view. They said the view blockage would devalue their home.

15. The proposed house is within the height limitations established by zoning and by the Skagit County Shoreline Master Program (SMP). The record reveals no legal right to a view of the lake in the neighbors.

16. The Planning and Development Services (PDS) staff reviewed the project in light of the criteria for the variances sought and determined that, as conditioned, the project would be consistent with the criteria. 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

17. Residential use is a reasonable use of the property. The design of the proposed home will be compatible with others in the immediate vicinity. Strict application of the regulatory setbacks would preclude this proposal. The situation is not the result of the applicants' actions.

18. Any conclusion here in which may be deemed a finding is hereby adopted as such.

CONCLUSIONS OF LAW

1. The Hearing Examiner has jurisdiction over these proceedings. SCC 10.03(1), SCC 14.24.140, SCC 14.10.020(3).

2. The project is exempt from the requirements of the State Environmental Policy Act. WAC 197-11-800(6)(b)

3. The proposal, as conditioned, meets the criteria for approval a critical areas variance. SCC 14.24.140(3),

4. The proposal, as conditioned, meets the criteria for approval of a zoning variance. SCC 14.10.040(1).

5. The proposal, as conditioned, meets the criteria for a shoreline variance. SMP 10.03(1).

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

CONDITIONS

1. The proposal 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 required permits and approvals and shall abide by the conditions of same.
3. The recommendations of the Edison Engineering Fish and Wildlife Habitat Assessment, dated November 11, 2019, shall be considered conditions of approval unless modified by the conditions below.
4. A minimum of 1,720 square feet of the remaining shoreline buffer between the home and the lake shall be enhanced with native vegetation. This shall include a minimum of 18 native trees or 69 native shrubs.
5. No later than 30 days from the date of plant installation, the applicants shall submit an as-built plan of the mitigation plantings as well as provide photographs of the installed plants.
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 shall assess the site and determine the best method to improve the rate of survival for additional native plants.
7. A Protected Critical Area (PCA) site plan shall be recorded with the County Auditor's Office prior to submittal of the building permit application.
8. Temporary erosion/sedimentation control measures shall be used in accordance with Chapter 14.32 SCC (Stormwater Management).
9. The applicants and their contractors shall comply with all other relevant State and local regulations, including but not limited to Chapters 172-201A and 173-200 WAC (surface and ground water), Chapter 173-60 (noise), and Chapter 14.16 SCC (zoning).
10. The applicants shall not park and shall not permit their visitors to park on the travelled public roadway.
11. The applicants shall submit a copy of this decision with the building permit application.
12. The project shall be commenced within two years and completed within five years of approval of the Shoreline Variance.
13. The Critical Areas Variance will expire if the use or activity for which it is granted is not commenced within three years of final approval.

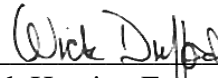
14. If the applicants propose any modification of the subject proposal, they shall notify Planning and Development Services (PDS) prior to the start of construction.

15. Failure to comply with any permit condition may result in permit revocation.

ORDER

The requested Critical Areas Variance (PL21-0290), Zoning Variance (PL21-0291) and Shoreline Variance (PL21-0292) are granted, subject to the conditions set forth above.

SO ORDERED, THIS 30, day of December, 2021.



Wick Dufford, Hearing Examiner

Transmitted to Applicants, County staff, and interested parties, December 30, 2021.