

NOTICE OF DECISION
BEFORE THE SKAGIT COUNTY HEARING EXAMINER

Applicant: Therese Ogle
6723 Sycamore Ave. N.W.
Seattle, WA 98117

Requests/File Nos: Shoreline Substantial Development Permit, PL 10-0452
Administrative Variance Permit, PL 10-0451

Location: 10968 Samish Island Road on Padilla Bay within a portion of
NE1/4 Sec. 35, T36N, R2E, W.M. (Parcel P47384)

Summary of Proposal: Installation of a cable lift from a beach cabin on the bay to
Samish Island Road, covering a distance of approximately
100 vertical feet. The upper terminus is proposed to be
located approximately 14 feet from the public right-of-way.

Land Use Designations: Shoreline: Rural Residential
Zoning: Rural Intermediate

SEPA Compliance: Mitigated Determination of Non-Significance (MDNS) issued
December 23, 2010. No appeals.

Public Hearing: April 20, 2011. No public testimony. Planning and Development
Services (PDS) recommended approval.

Decision: Approval, subject to conditions

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

Variance: A Request for Reconsideration may be filed with PDS
within 10 days of this decision. The decision may be appealed to
the Board of County Commissioners by filing an Appeal with PDS
within 14 days of the date of the decision or decision on recon-
sideration, 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. Therese Ogle seeks a Shoreline Substantial Development Permit and an Administrative Variance to build a cable lift from her beach cabins on Padilla Bay to the top of the bank near Samish Island Road.
2. The property is Parcel P47384, located at 10968 Samish Island Road on Samish Island, within a portion of the NE1/4 Sec. 35, T36N, R2E, W.M. There are a main cabin and a guest cabin behind an existing bulkhead on the site.
3. Access to the cabins is currently provided by a steep 400 foot-long trail that descends approximately 100 vertical feet to the shore of the bay.
4. The lift will be a two-person passenger tram supported by suspended overhead cables. The top of the lift, set back approximately 14 feet from the Samish Island Road right-of-way, will consist of a 7-by-25 foot concrete foundation with a drive mechanism. The cables, supported on piles at the top, will extend down to a landing at an existing 8-by-8 foot patio, located approximately 35 feet landward of the Ordinary High Water Mark (OHWM) at the bulkhead. A 6-by-6 foot concrete cable anchor will be installed underground adjacent to the lower landing.
5. The cable lift alignment is over a gradient averaging about 77%. Except for some minor vegetation removal and trimming, there will be no disturbance of the bank. The concrete anchor for the lift will be buried in the existing lawn area, well landward of development on the site that is closest to the bay.
6. The applicant is requesting a Shoreline Substantial Development Permit for the structure and an administrative variance to reduce the setback from the road from 35 feet to 14 feet.
7. The edge of the coastal bluff is located about 34 feet from the Samish Island Road right-of-way. After a site visit, the Department of Public Works determined that a 14 foot setback from the right-of-way could be approved. There isn't room at this location for a greater setback.
8. With the installation of the lift structure, there should remain adequate space for residential parking at the top of the bank. The applicant is being asked to demonstrate that this is true.
9. Based on the presence of steep slopes and shorelines within 200 feet of the proposed project, the applicant submitted a Fish and Wildlife Habitat Assessment (Graham-Bunting and Associates, July 27, 2010), and a Geotechnical Site Reconnaissance and Addendum (Western Geotechnical Consultants, Inc., June 28 & September 17, 2010).
10. The Fish and Wildlife Habitat Assessment noted that the construction will require the removal of a single 22-inch (dbh) fir, and some topping and trimming of other vegetation.

Otherwise the existing thick cover of vegetation on the bank will remain undisturbed. The Assessment recommended the planting of three native conifers as mitigation and the placement of the critical area buffers within a Protected Critical Area (PCA).

11. The geotechnical reports concluded that the site is stable and does not present a risk of landslides. It was noted that the slope will not be disturbed by this project and that the element of stability provided to the slope face by vegetation will be retained.

12. After review of all environmental documents, a Mitigated Determination on Non-Significance (MDNS) was issued on December 23, 2010, pursuant to the State Environmental Policy Act (SEPA). There were no public comments. There were no appeals. The conditions of the MDNS are as follows:

- The applicant shall comply with Northwest Clean Air Agency requirements.
- The applicant shall comply with the provisions of the Skagit County Code Critical Areas Ordinance. All critical areas and associated buffers impacted by the proposal shall be, at a minimum, restored to its previous function and value immediately following completion of the project.
- Temporary erosion/sedimentation control measures, as approved by the Skagit County Department of Public Works, shall be in place prior to the initiation of the project pursuant to Skagit County Code (SCC) 14.32 Drainage Ordinance. The applicant shall maintain all temporary erosion/sedimentation control measures in accordance with the Skagit County Drainage/Erosion/Sedimentation Control Ordinance. Said measures shall remain in place until the completion of the project.
- The project shall comply with noise, vibration and light/glare limitations as per SCC 14.16.840.
- The project is limited to those activities described in the SEPA checklist and supporting documents. Significant deviation from the proposal may require additional review and approval by Skagit County Planning and Development Services.
- The applicant shall comply with the provisions of Washington State Administrative Code (WAC) 173-200 & 173-201A as required to prevent surface water quality and groundwater impacts. Best management practices shall be utilized to prevent interference and/or degradation of water quality.
- The proposal shall comply with all policies and regulations of the Skagit County Shoreline Management Master Program and the Shoreline Management Act RCW 90.58.
- The applicant and/or the contractor shall utilize best management practices to ensure that no construction materials enter the water during construction. All materials shall be disposed of in an approved method and location.
- The applicant shall adhere to the conditions and the permit requirements of other agencies.

13. A letter of completeness was issued, stating that the application was complete on October 29, 2010. A Notice of Development Application was posted and published on November 4, 2010 and was mailed to property owners within 300 feet. No comments were made during the comment period. No public testimony was given at the hearing.

14. The application was circulated to various County departments. As noted, Public Works stated they would approve a setback from the right-of-way of 14 feet. Other agency comments are reflected in conditions of approval.

15. A representative of Accumar, the company that designed and will install the lift, testified that numerous such lifts have been successfully installed along the shoreline, some in the immediate neighborhood of this project.

16. The application was reviewed for compliance with the local Shoreline Master Program (SMP). The Staff Report details this review and the Staff's conclusion that the project, as conditioned, will comply with the SMP. 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. The proposed cable lift is an accessory to a residential use. The SMP subjects such uses to a 35-foot setback from the OHWM. The Staff analyzes this proposal as meeting this 35-foot setback. The shore setback to be met on this developed lot is adequate to protect against any adverse shoreline impacts. Parking will be located over 125 feet from the OHWM, well landward of the primary development on the site.

18. SCC 14.16.810(4) permits the reduction of zoning setbacks where topography impacts the reasonable development of the property. The construction of the subject cable lift is a reasonable development. The space required for the upper landing will not permit a setback of greater than 14 feet from the right-of-way. The Examiner finds the public health, safety and welfare will be maintained by a 14-foot setback from the right-of-way in this case.

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

CONCLUSION OF LAW

1. The Hearing Examiner has jurisdiction over the subject matter of this proceeding. Both a Shoreline Substantial Development Permit and a land use setback variance are required. The application process for these two approvals has been consolidated for a single hearing before the Examiner under SCC 14.06.060.

2. The requirements of SEPA have been met.

3. In this process, the Examiner evaluates the proposal under the criteria for an administrative variance. The Examiner concludes that the applicable criteria have been met. SCC 14.16.810(4).

4. As conditioned, the proposal is consistent with the policies of the Shoreline Management Act, the regulations of the Department of Ecology, and the policies and regulations of the local SMP. It meets the criteria for approval of a Shoreline Substantial Development Permit. SMP 9.02.

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

CONDITIONS

1. The project shall be constructed and operated in accordance with the application materials submitted, except as the same may be altered by these conditions.

2. The applicant shall obtain a building permit and all other necessary permit and shall abide by the conditions of same.

3. A copy of this decision shall accompany the building permit application. The building permit shall be considered in accordance with the approved reduction in setback as requested and as shown on the approved site plan.

4. Prior to final approval of the building permit, the applicant shall demonstrate that room for on-site parking of two cars is available.

5. All conditions set forth in the MDNS, issued December 23, 2010, shall be met. (See Finding 12.)

6. Aesthetic impacts shall be minimized. Tram lines and supporting facilities shall be rendered as inconspicuous as possible.

7. The applicant shall comply with recommendations of the Fish and Wildlife Assessment, issued by Graham Bunting and Associates on July 27, 2010.

8. The applicant shall comply with recommendations of the Geotechnical Site Reconnaissance, issued by Western Geotechnical Consultants, Inc., on June 28, 2010.

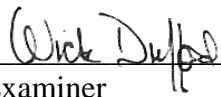
9. Construction shall commence within two years of the issuance of all required permits and shall be completed within five years thereof.

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

DECISION

The application for a Shoreline Substantial Development Permit (PL 10-0452) is approved, subject to the conditions set forth above. The application for an Administrative Variance (PL 10-0451) is approved. The front setback is reduced from 35 feet to 14 feet for the upper tram landing.

DONE this 3rd day of May, 2011



Hearing Examiner

Transmitted to Applicant on May 3, 2011

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