



COUNTY COMMISSIONERS

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 District One
 Sandra Romero
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HEARING EXAMINER

Creating Solutions for Our Future

**BEFORE THE HEARING EXAMINER
 FOR THURSTON COUNTY**

In the Matter of the Application of)	PROJ. NO. 2013100541
)	
Brad and Lisa Hoglan)	FINDINGS, CONCLUSIONS,
)	AND DECISION
)	
For Approval of a)	
Shoreline Substantial Development Permit)	
_____)	

SUMMARY OF DECISION

The request for a shoreline substantial development permit to replace a pre-existing dock and to authorize retention of previously performed repairs and expansion of an existing stairway down to the shoreline and a restroom on a vacant, single-family residential lot in the Rural Shoreline Environment adjacent to Summit Lake is **GRANTED** subject to conditions.

SUMMARY OF RECORD

Request:

Brad and Lisa Hoglan (Applicants) requested a shoreline substantial development permit to replace a pre-existing dock and to authorize retention of previously performed repairs and expansion of an existing stairway down to the shoreline and restroom on a vacant, single-family residential lot in the Rural Shoreline Environment adjacent to Summit Lake.

Hearing Date:

The Thurston County Hearing Examiner held an open record hearing on the request on July 15, 2013.

Testimony:

At the hearing the following individuals presented testimony under oath:

- Scott McCormick, Associate Planner, Thurston County Resource Stewardship Department
- Sara Brallier, Environmental Health Department
- Brad Hoglan, Applicant

Exhibits:

At the hearing the following exhibits were admitted in the record:

EXHIBIT 1 Resource Stewardship Department, Land Use and Environmental Review
Section Report including the following attachments:

Attachment a	Notice of Hearing
Attachment b	Master Application, dated February 23, 2012
Attachment c	JARPA Application, dated February 23, 2012
Attachment d	Vicinity Maps (TC Geodata)
Attachment e	SEPA Environmental Checklist, dated February 23, 2012
Attachment f	Combined Notice of Application and Mitigated Determination of Non-Significance, dated August 2, 2012
Attachment g	Residential Site Plan of subject property, dated February 23, 2012
Attachment h	Restroom Construction Details, dated February 23, 2012
Attachment i	Stairs No. 1 Construction Details, dated February 23, 2012
Attachment j	Stairs No. 2 Construction Details, dated February 23, 2012
Attachment k	Stairs No. 3 Construction Details, dated February 23, 2012
Attachment l	Stairs No. 4 Construction Details, dated February 23, 2012
Attachment m	Dock Plans (pages 1 – 4), dated February 23, 2012
Attachment n	Memorandum from John Ward, Environmental Health Department, dated March 9, 2012
Attachment o	Memorandum (SEPA Recommendation) from Kevin Chambers, Public Works Department, dated March 5, 2012
Attachment p	Memorandum (Recommendation for Approval) from Kevin Chambers, Public Works Department, dated March 5, 2012
Attachment q	Correspondence from Department of Ecology, dated July 2, 2013
Attachment r	Photographs of Subject Parcel (pgs. 1 – 10)

Exhibit 2 Color copy of two photos of the notice of hearing posted on-site

Exhibit 3 11x17 copies of site plans (Sheets 1-6)

Based upon the record developed at hearing, the following findings and conclusions are entered in support of the decision of the Hearing Examiner:

FINDINGS

1. The Applicants requested a shoreline substantial development permit to replace a pre-existing dock and to authorize retention of previously performed repairs and expansion to an existing stairway down to the shoreline on a vacant, single-family residential lot in the Rural Shoreline Environment adjacent to Summit Lake.¹ The permit would also allow a restroom built without benefit of permits to be retained. *Exhibit 1, page 1; Exhibit 1, Attachments C, D, E, and F.*
2. Surrounding parcels are residentially developed, many with private docks. According to Staff, the lake and surrounding land are underlain by a thick bedrock layer, which makes shoreline and upland areas very stable and also makes domestic wells largely unfeasible. Most residences use water directly from Summit Lake and bottled water is commonly used for drinking. *Exhibit 1, pages 3-4.*
3. The roughly rectangular 0.54-acre subject parcel is located along the south shore of Summit Lake in rural Thurston County. The Applicant also owns the irregularly shaped parcel adjacent to the north. Neither is developed with a residence. The property is densely vegetated with mature evergreen trees and understory species. Historically, the waterfront parcel has been used as a recreation lot for decades. Prior to the Applicants' purchase of the site a couple years before the date of application, the lot was developed with a segmented stairway and trail down to the waterfront, an on-site septic system to which camp trailers or RVs were connected, a bulkhead made of concrete cylinders, and a 40-foot dock. *Exhibit 1, page 2-4; Hoglan Testimony; Exhibit 1, Attachment r, pages 8-9.*
4. Although it doesn't meet Thurston County critical areas definitions of steep slopes, the property slopes somewhat steeply down from the graveled access easement to the shoreline. Prior to the Applicants' purchase of the site, the existing stairway and trail to the beach consisted of two segments of wood stairs connected by a trail switching back and forth down the slope, creating three separate lawn areas. The lowest lawn area directly abuts the lake. The trail surface between stairway segments was rutted open dirt,

¹ The legal description of the subject property is: Plat SUMMIT LAKEWATERFRONT PTN LT Document 012/021 LYING NLY OF A LN DAF: BAAP ON THE WLY LN OF SD LOT 148.08 FT N OF ITS SW COR; known as Tax Parcel no. 77100000100. *Exhibit 1, page 1.*

graveled areas, and some vegetation. *Hoglan Testimony; Exhibit 1, page 3; Exhibit 3, Sheet 1.*

5. The County has no record of when the dock and stairway were built; no permits were issued for their construction. As noted in the staff report, there are hundreds of existing docks and floats on Summit Lake and it is not uncommon to discover unpermitted docks and other development along its shoreline. *Exhibit 1, page 4; McCormick Testimony.*
6. The Applicant has no knowledge of when the improvements were installed. Pertaining to the bulkhead, it appears to be constructed of concrete test samples cast off from construction of a large project. In his testimony, the Applicant surmised that the concrete cylinders were created and put in place on-site sometime in the 1950s, based on their current condition. The people from whom the Applicants purchased the site had owned the property approximately ten years and he believed the bulkhead predated their ownership. *Hoglan Testimony.*
7. Prior to the Applicants' purchase of the site, the dock had fallen into significant disrepair and had become unusable. Brad Hoglan removed the failed portions of the dock but the eight- to ten-inch wood pilings remain in place. The Applicant, who is a carpenter by trade, undertook repairs on the two segments of the stairway. He repaired the upper-most segment, replaced the second segment, and added three more sections of stairway (the three closest to the lake). He cleaned up the several lawn areas of garbage and debris and watered and maintained them to their current green lawn condition without the use of chemical products. Finally, the Applicant built an eight- by 12-foot restroom with sink and toilet, connected to the existing on-site septic. He did not believe he was required to get a building or other permit to undertake the repairs and extension of the stairway because they were existing, or a building permit for the restroom because it was smaller than 200 square feet.² *Hoglan Testimony; McCormick Testimony; Exhibit 3, Sheets 1-2; Exhibit 1, page 4.*
8. The site contains no critical areas. *Exhibit 1, page 3.* It is zoned Residential LAMIRD – Two Dwelling Units Per Acre (RL 2/1). Summit Lake is a shoreline subject to the jurisdiction of the Shoreline Master Program for the Thurston Region and the subject property's shorelands are designated as Rural Shoreline Environment. *Exhibit 1, pages 2-3.*
9. Single family development, including appurtenances, is permitted within the RL 2/1 zoning district. *Thurston County Code (TCC) 20.13A.020.* All of the development described above is within the 200-foot shoreline jurisdiction area. The SMPTR allows shoreline stair towers and single-family residential docks within the Rural Shoreline Environment; however, shoreline stairways are not identified as a residential appurtenance for purposes of shoreline permitting in the SMPTR or the Washington

² As noted in the Staff Report, the 200 square foot exemption from building permit requirements applies only to storage buildings in the nature of sheds. *Exhibit 1, page 4.*

Administrative Code. The stairway is therefore not exempt from the requirement to obtain a shoreline substantial development permit if its fair market value exceeds the threshold amount set by the State Legislature, which was \$6,416.00 at the time of application. Information submitted by the Applicants indicates that value of the stairs and dock exceed this threshold.³ Also, docks on vacant residential lots are not exempt from the SSDP requirement. Shoreline substantial development permit approval is required. *Exhibit 1, pages 2,8; McCormick Testimony.*

10. On February 23, 2012, the Applicants submitted a joint aquatic resources permit application (JARPA) to seek permission to replace the dock. In reviewing the request, Resource Stewardship Staff discovered the unpermitted bulkhead, stairway, and restroom. The request was amended to include permission to retain these other features of the shoreline improvements. *Exhibit 1, Attachment c; Exhibit 1, page 3.*
11. The proposed dock would be built in the existing dock's footprint. The wood pilings would be removed and replaced with galvanized steel pipe pilings three-quarters of an inch in diameter. The steel pilings would be driven into the lake bed using a pneumatic vibratory driver. Wood framing would be built on the pilings, joists placed every 16 inches, and a composite wood surface would be installed. Materials and equipment would be brought to the site by water; no staging or construction would occur on land or in the riparian area. *Exhibit 1, Attachment c, JARPA; Hoglan Testimony.*
12. Replacement and new stairway segments were constructed with pressure treated wood posts cemented in place and Trex decking. The new stairway segments were built to hug the natural surface of the land with no excavation or grading. The trail sections between stairway segments have grown in vegetation and the former mud ruts are gone. The Applicants maintain the three lawn sections using a push mower without any fertilizer or weed killers, with the express intention of protecting water quality in the lake. *Hoglan Testimony; Exhibit 3, Sheet*
13. Residential development is required to be setback at least 50 feet from the ordinary high water mark (OHWM) of the lake. *SMPTR Section III, Chapter VXI.D.3.d.2.* Typically a buffer of native vegetation is required to be maintained in the area between the OHWM and 20 feet from the residence. *SMPTR Section III, Chapter VXI.D.3.d.3; McCormick Testimony.* The site plan does not show the required 50-foot residential setback; however, according to the Applicant's testimony, 50 feet from the OHWM would be approximately above the middle of the three lawns. The Applicants placed the restroom more than 50 feet from the OHWM. Within the typically native vegetation buffer area, the subject property has a maintained lawn. Neither the County nor the Applicants have any knowledge of how long the lawn has been there, but Staff considered the lawn a pre-existing vegetated area and did not seek to have it replaced with native vegetation. Within the area required as a buffer, the only ground disturbance that has occurred is clearing of vegetation within the marked path of the stairway and trail, and the trail

³ The Examiner notes that the JARPA lists a value of only \$5,670.00; however this amount does not reflect the value of stairway improvements, but only the dock.

contains some vegetation. *McCormick Testimony; Hoglan Testimony; Exhibit 1, page 8; Exhibit 3, Sheet 1.*

14. The 96 square foot restroom is slightly over nine feet tall. It is built to resemble a residential structure with a pitched roof, wood siding, and windows. Its location is a flat area near some mature evergreen trees. It is visible from the lake and potentially from adjacent parcels. *Exhibit 3, Sheets 1 and 2; Exhibit 1, Attachment r, page 1.*
15. While the SMPTR favors cooperative (shared) docks, the proposed dock would replace an existing dock that is believed to pre-date the adoption of the shoreline master program. Because it replaces an existing facility, the dock would result in little if any impact to existing views and to boaters and fishers. Most docks in the vicinity of the subject property are 50 feet in length. In the SMPTR, the maximum permitted dimensions for freshwater docks are eight by fifty feet. The proposed dock is smaller than the maximum dimensions allowed. No float is proposed at the end of the dock. In its existing footprint, the dock is setback more than ten feet from side property lines. *Exhibit 1, pages 4-8.*
16. The subject property is located within a stable portion of shoreline. No portion of the stairway is greater than 24 feet in height. The stairs would result in no view obstructions. *Exhibit 1, pages 4-8; Hoglan Testimony; Exhibit 3, Sheet 1.*
17. The opposite shore of Summit Lake is greater than 150-feet away. *Exhibit 1, page 5.*
18. No covered moorage or industrial or commercial development is proposed. *Exhibit 1, pages 4-8.*
19. New structures in the RL 2/1 zone are required to be setback 25 feet from a local road and 10 feet from side and rear property lines. *Thurston County Code (TCC) 20.07.030(1).* The recently constructed toilet exceeds the required setbacks. No other structures are proposed. *Exhibit 3, Sheet 1.*
20. Pursuant to the State Environmental Policy Act, Thurston County acted as lead agency for review of potential environmental impacts of the proposal. Review included the following documents: an environmental checklist; JARPA; site plans; Applicant narrative; Thurston County Public Works comments; and Thurston County Environmental Health comments. The SEPA Responsible Official issued a mitigated determination of non-significance (MDNS) on August 2, 2012, which was not appealed and so became final on August 29, 2012. The MDNS was not appealed. Required mitigation measures included: application for SSDP rather than shoreline exemption; exclusion of debris and waste materials from surface water buffers; implementation of proper erosion control measures during construction; removal of existing wooden pilings if replaced with steel; prohibition against painting or treating the surface of the dock over water; and appropriate stop work and notification in the event of unanticipated discovery of archeological or cultural artifacts. *Exhibit 1, page 2; Exhibit 1, Attachments e and f.*

21. The proposal was routed to Thurston County Environmental Health Division (EHD) for review of the project's compliance with County health code requirements. The eight- by 12-foot restroom structure is not built above existing tank or other septic system components, but is off to the side by several feet, just down gradient. The new facilities are connected to the existing, approved on-site septic. As a general rule, the Health Department prohibits vehicle or equipment parking or travel, and any staging of materials over any part of the septic system, and these observances were added as a recommended condition of approval. *Brallier Testimony; Exhibit 1, Attachment N; Hoglan Testimony.*
22. Thurston County Public Works Development Review Section reviewed the application and plans and determined that as proposed, the project satisfies all requirements of the County's Road Standards and Drainage Design and Erosion Control Manual. Pursuant to the discretion conferred in TCC 17.15.630.C.3, the Public Works Department waived the requirement for a drainage and erosion control plan and grading plan because the previously constructed stairway segments and the proposed dock would create insignificant impervious surface and require insignificant grading, rendering an independent study of drainage and erosion unnecessary. According to Public Works Staff, the stairways will not disturb or alter existing stormwater runoff patterns. *Exhibit 1, page 8; Exhibit 1, Attachment o.*
23. Notice of the public hearing was sent to all property owners within 500 feet of the site, posted on-site, and published in The Olympian on July 5, 2013, ten days prior to the hearing. The site was posted on July 3, 2013. *Exhibit 1, pages 2- 3; Exhibit 1, Attachment A; Exhibit 2.* The County received no public comment on the application. *McCormick Testimony.*
24. In its original recommendations (*Exhibit 1, pages 2, 9*), Resource Stewardship Staff recommended that the cement bulkhead be required to be removed. Bulkheads are rarely approved on freshwater lakes and almost never approved where no residence or other improvements are threatened. In the instant case, the bulkhead serves to protect a non-conforming lawn area developed within the fifty-foot Rural shoreline buffer. According to testimony, Staff's recommendation for removal was based on an assumption that the bulkhead was newly installed along with the restroom and stairway segments. Upon learning from the Applicant that the bulkhead pre-dates his purchase of the property and testimony estimating it has been present on-site for decades, Staff rescinded its recommendation that the bulkhead be removed. *Exhibit 1, page 2; McCormick Testimony; Hoglan Testimony.*
25. Some corrections to the information in the JARPA application are needed for the record. On page 4, the JARPA states that the property is used as a private residence. This is not correct; there is no residence on-site. On page 8, it states that bringing materials and equipment to the site by water would "minimize the impacts to wetlands and buffer at the site." There are no wetlands. The JARPA form was completed by a former applicant consultant who was not that familiar with the property. *Hoglan Testimony; McCormick Testimony.*

26. The Applicant waived objection to recommended conditions of approval numbers 2 through 15. *Hoglan Testimony*.

CONCLUSIONS

Jurisdiction

The Hearing Examiner is granted jurisdiction to hear and decide applications for shoreline substantial development permits pursuant to RCW Chapter 36.70, WAC 173-27, and Section One, Part V of the Thurston County Shoreline Master Program.

Criteria for Review

To be approved by the Hearing Examiner, the proposed shoreline substantial development permit must be consistent with:

- A. The policies and procedures of the Shoreline Management Act;
- B. The provisions of applicable regulations; and
- C. The Shoreline Master Program for the Thurston Region.

Washington Administrative Code (WAC) 173-27-150.

(a) Shoreline Management Act

Chapter 90.58 RCW, the Washington State Shoreline Management Act (SMA) of 1971, establishes a cooperative program of shoreline management between the local and state governments with local government having the primary responsibility for initiating the planning required by the chapter and administering the regulatory program consistent with the Act. The Thurston County Shoreline Master Program (SMPTR) provides goals, policies and regulatory standards for ensuring that development within the shorelines of the state is consistent the policies and provisions of Chapter 90.58 RCW.

The intent of the policies of RCW 90.58.020 is to foster “all reasonable and appropriate uses” and to protect against adverse effects to the public health, the land, and its vegetation and wildlife. The SMA mandates that local governments adopt shoreline management programs that give preference to uses (in the following order of preference) that: recognize and protect the statewide interest over local interest; preserve the natural character of the shoreline; result in long term over short term benefit; protect the resources and ecology of the shoreline; increase public access to publicly owned areas of the shorelines; and increase recreational opportunities for the public in the shoreline. The public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state is to be preserved to the greatest extent feasible consistent with the overall best interest of the state and the people generally. To this end uses that are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the state's shoreline, are to be given preference.

(b) Applicable regulations from the Washington Administrative Code

WAC 173-27-140 Review criteria for all development.

- (1) No authorization to undertake use or development on shorelines of the state shall be granted by the local government unless upon review the use or development is determined to be consistent with the policy and provisions of the Shoreline Management Act and the master program.
- (2) No permit shall be issued for any new or expanded building or structure of more than thirty-five feet above average grade level on shorelines of the state that will obstruct the view of a substantial number of residences on areas adjoining such shorelines except where a master program does not prohibit the same and then only when overriding considerations of the public interest will be served.

WAC 173-27-190 Permits for substantial development, conditional use, or variance.

- (1) Each permit for a substantial development, conditional use or variance issued by local government shall contain a provision that construction pursuant to the permit shall not begin and is not authorized until twenty-one days from the date of filing as defined in RCW 90.58.140(6) and WAC 173-27-130, or until all review proceedings initiated within twenty-one days from the date of such filing have been terminated; except as provided in RCW 90.58.140 (5)(a) and (b).

(c) Shoreline Master Program for the Thurston Region

The following are applicable provisions of the SMPTR:

SMPTR Section Two, Chapter V. Regional Criteria

The Shoreline Master Program for the Thurston Region contains regional criteria that apply to the proposal. All development within the jurisdiction of this Master Program shall demonstrate compliance with the following criteria:

- A. Public access to shorelines shall be permitted only in a manner which preserves or enhances the characteristics of the shoreline which existed prior to establishment of public access.
- B. Protection of water quality and aquatic habitat is recognized as a primary goal. All applications for development of shorelines and use of public waters shall be closely analyzed for their effect on the aquatic environment. Of particular concern will be the preservation of the larger ecological system when a change is proposed to a lesser part of the system, like a marshland or tideland.
- C. Future water-dependent or water-related industrial uses shall be channeled into shoreline areas already so utilized or into those shoreline areas which lend themselves to suitable industrial development. Where industry is now located in shoreline areas that are more suited to other uses, it is the policy of this Master Program to minimize expansion of such industry.
- D. Residential development shall be undertaken in a manner that will maintain existing public access to the publicly-owned shorelines and not interfere with the public use of water areas fronting such shorelines, nor shall it adversely affect aquatic habitat.
- E. Governmental units shall be bound by the same requirements as private interests.
- F. Applicants for permits shall have the burden of proving that a proposed substantial development is consistent with the criteria which must be met before a Permit is granted. In

any review of the granting or denial of an application for a permit as provided in RCW 90.58.18.180 (1), the person requesting the review shall have the burden of proof.

- G. Shorelines of this Region which are notable for their aesthetic, scenic, historic or ecological qualities shall be preserved. Any private or public development which would degrade such shoreline qualities shall be discouraged. Inappropriate shoreline uses and poor quality shoreline conditions shall be eliminated when a new shoreline development or activity is authorized.
- H. Protection of public health is recognized as a primary goal. All applications for development or use of shorelines shall be closely analyzed for their effect on the public health.

Section Two, Chapter VII, Shoreline Environments

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C. Rural Environment (page 30)

Purpose. The primary purposes of the Rural Environment are to protect areas from urban expansion, restrict intensive developments along undeveloped shore-lines, function as a buffer between urban areas, and maintain open spaces for recreational purposes compatible with rural uses. New developments in a Rural Environment are to reflect the character of the surrounding area.

Definition. The "Rural Environment" designates shoreline areas in which land will be protected from high-density urban expansion and may function as a buffer between urban areas and the shorelines proper. This environment is characterized by low intensity land use and moderate to intensive water use. Residential development does not exceed two dwellings per acre. Visual impact is variable with a moderate portion of the environment dominated by structures of impermeable surfaces. Intensive cultivation and development of the renewable soils, aquatic and forest resources, as well as limited utilization of nonrenewable mineral resources is permitted. Recreational activities and public access to the shoreline are encouraged to the extent compatible with other rural uses and activities designated for this environment.

Goal Statements: (pages 30-31)

1. Economic Development. Available resources should be utilized consistent with the definition and purpose of the Rural Environment.
2. Public Access. The primary goal of this element is to provide adequate public access areas to ensure maximum enjoyment of recreational and scenic opportunities with minimum conflict with other rural uses. It is the intent of this goal to:
 - a. Recognize and protect private property rights consistent with the public interest;
 - b. Prevent the destruction of the more fragile recreation areas through excessive use; and
 - c. Exercise due regard for the safety of the public.
3. Circulation. The goal of the Circulation Element in the Rural Environment is to provide facilities that are necessary only for local usage. Trail systems for safe nonmotorized traffic are to be encouraged where compatible with rural uses. Major planned circulation systems shall be located away from shoreline areas whenever possible.
4. Recreation. The recreation goal is to assure diverse, convenient and adequate water-related recreational opportunities along the shorelines of the County located in such a way as to minimize conflicts with other rural activities.

5. Shoreline Use. Areas for intensive public use should be distributed in such a manner as to avoid concentration of user pressure, to discourage intrusions endangering life or property, and to avoid uses having adverse effects on fragile natural systems.
6. Conservation. This goal shall be to have sound management in the conservation of all natural resources within the Rural Environment.
7. Historical and Cultural Values. The goal of this element shall be to promote, protect and preserve historical, cultural scientific or educational values on shorelines where these values are acknowledged.
8. Restoration. This goal is to restore to a useful or original condition those areas (including waters) which are blighted by present uses, discontinued uses and dilapidated or abandoned structures.

Section Three, Chapter IV-- Policies and Regulations For Use Activities: Boating Facilities

A. Subject to the policies and general regulations of the SMPTR, the Boating Facilities Chapter IV allows recreational docks within the Rural Shoreline Environment.

B. Chapter IV, B. Policies for piers and docks (SMPTR pg. 48):

1. (not applicable)
12. Pier and docks should be designed and located to minimize obstructions to scenic views, and conflicts with recreational boaters and fisherman.
13. Cooperative uses or piers, docks and floats are favored especially in new subdivisions.
14. Moorage buoys are preferred over piers and docks especially in tidal waters.
15. (not applicable)
19. Covered moorage over the water should be discouraged in tidal waters and prohibited in fresh water.

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C. General Regulations (SMPTR pg. 49)

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Piers and Docks:

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13. Prior to final project approval of a residential development, a usable area shall be set aside for pier or dock unless there is no suitable area. Only one dock or pier is permitted in a new residential development.
14. All pier and dock development shall be painted, marked with reflectors or otherwise identified so as to prevent unnecessarily hazardous conditions for water surface users during day or night.
15. Docks and piers are prohibited on lakes or marine water bodies where the distance to the opposite shore is one hundred fifty (150) feet or less. This is to insure the maintenance of navigation.
16. When bulkheads are constructed in conjunction with pier or dock development, the bulkhead shall be placed no farther waterward of the ordinary high water mark than is

necessary to achieve erosion control. The most landward portion of the footing shall be at the toe of the bank or the vegetation line where the toe of the bank is not discernible.

17. In marine water, the length of piers or docks for recreational use may be the average length of the existing docks or piers within one hundred (100) feet of each property line. If there exists a dock on one side of a new proposed one but not on the other, the average to be used for the side without a dock shall be one hundred (100) feet. If there are no piers or docks within one hundred (100) feet, the maximum length shall not exceed one hundred (100) feet as measured from the mean higher high-water mark and not exceed a depth of minus three (-3) feet as measured from mean lower low water. If this is not sufficient length to reach the desired depth for moorage, then a buoy shall be used.
18. There is no maximum length and width for commercial piers or docks; however, the proponent must show the size proposed is the minimum necessary to allow the use proposed.
19. The width of recreational docks or piers shall not exceed eight (8) feet.
20. In fresh water areas, new docks shall not exceed the average length of the existing docks within one hundred (100) feet of the property lines. If there exists a dock on one side of a new proposed one but not on the other, the average to be used for the side without a dock shall be fifty (50) feet. If there are no docks with one hundred (100) feet, the length shall not exceed fifty (50) feet as measured from the ordinary high water mark.
21. At the terminus of a dock or pier, a float is normally attached for purposes of a landing and for moorage of watercraft. These floats may either be parallel to the dock or pier, or form a tee. The float cannot exceed four hundred (400) gross square feet for a piling dock/pier in tidal waters, two hundred fifty (250) gross square feet for a floating dock/pier on tidal water, and two hundred (200) gross square feet for docks/piers on fresh water. The total length of the dock/pier with an attached float cannot exceed the total length allowed under General Regulations #17 and #20.
22. Docks and piers shall be set back ten (10) feet on fresh and twenty (20) feet on tidal water from the side property line. These setbacks may be waived if two single-family property owners wish to construct a joint pier on the common property line under the following conditions:
 - a. Both property owners must record a non-exclusive easement granting each other the right to use the pier.
 - b. The easement must acknowledge that each property owner is giving up the right to construct a separate single-family pier.
23. Span between pilings for piers or docks on pilings shall be eight (8) feet or greater.
...
31. Covered moorage is prohibited over fresh water.

Section Three, Chapter XIV, C.8 and Section Three, Chapter XVI, C.11

Stair Towers:

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11. All stair towers meeting one of the following conditions must be designed by a licensed civil engineer:
 - a. The location proposed is mapped as "unstable" or "Intermediate Stability" in the Washington Coastal Zone Atlas prepared by the State Department of Ecology.
 - b. All stair towers 24 feet in height or greater.
 - c. Other instances where the building official determines that site conditions dictate the preparation of plans by a licensed civil engineer.
12. Stair towers shall be designed to minimize obstructing the views enjoyed by adjoining residences.

Section Three, Chapter XVI, Residential Development

D. Environmental Designations and Regulations

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3. Rural Environment

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- d. Land clearing and grading is permitted after obtaining a shoreline permit, an exemption from the Administrator, or a land clearing permit from the local jurisdiction for preparation of new building sites. A buffer of existing ground cover must be maintained in the area between the ordinary high-water mark and twenty (20) feet from the structure. The ground cover in the buffer may be disturbed only after approval of the Administrator where one or more of the following conditions apply:
 - (1) A building site has been approved in the buffer area and an erosion control and vegetation protection plan has been approved by the Administrator.
 - (2) The applicant wishes to landscape the area with other vegetation and has an erosion control plan approved by the Administrator.
 - (3) When the construction of access pathway is proposed for to the shoreline, vegetation will be removed only within the boundaries of constructed access pathway.

Conclusions Based on Findings

1. The proposed replacement dock and the installed stairway to the lake are needed to provide reasonable access to the on-site shoreline. The stairway as installed preserved the natural countour of the slope and serves to control or reduce erosion from foot travel down the slope to the water. As conditioned, the project would: preserve the natural character, resources, and ecology of the shoreline; control pollution during construction; and improve access to the shoreline both for boating and other recreation, consistent with the expectation of surrounding waterfront parcel owners. Both the previously constructed and the proposed portions of the project represent a reasonable and appropriate use of the shoreline consistent with the Shoreline Management Act. *Findings 7, 9, 10, 11, 12, 13, 14, 15, 20, and 24.*
2. As conditioned, the proposed improvements comply with applicable regulations in the Washington Administrative Code. No new structure would be taller than ten feet above

grade at any point. The new restroom connected to the existing on-site septic has resulted in no significant impact to the on-site views of the adjacent residences and no impact to water views from any property. A condition of approval would ensure compliance with the requirements of WAC 173-27-190. *Findings 9, 12, 14, 15, and 16.*

3. As conditioned, the request is consistent with the applicable SMPTR policies and regulations. The proposal would replace an existing dock that complies with the sizing restrictions in the SMPTR in the same footprint, removing wood pilings and replacing them with galvanized steel. Conditions would ensure that the span between the replacement pilings would be at least eight feet. Installation methods were selected to reduce impacts to the riparian and aquatic environments. No covered moorage or float at the dock terminus are proposed. The subject slope is stable. In repairing and extending the trail to the shoreline area using stairway segments, the Applicants only removed vegetation from within the line of the path. The previously installed stairway segments were designed and installed to follow the existing slope. They will serve to prevent erosion from foot traffic during wet seasons, protecting on-site slopes and vegetation. As Summit Lake is a domestic water source, the addition of a restroom to the site provides environmentally safe sanitary waste treatment. No public health concerns were raised during review of the project. Minimal increased impervious surfaces resulted from the restroom facility. No grading, excavation, or fill was required by any portion of the project already built. No views or scenic vistas are impacted. The proposal does not negatively affect the character or environmental features of the site. The proposal is built wholly on privately owned land and would result in no impact to public access to the shorelines of the state. No commercial or industrial development is proposed. The existing bulkhead predates the Applicants' ownership of the subject property and possibly dates back prior to the adoption of the Shoreline Master Program for the Thurston Region; it need not be removed for the purposes of this SSDP review. *Findings 2, 3, 4, 5, 6, 7, 11, 12, 13, 14, 15, 16, 17, 18, 20, 21, 22, and 24.*

DECISION

Based upon the preceding findings and conclusions, the requested shoreline substantial development permit to replace a pre-existing dock and to authorize retention of previously performed repairs on and expansion of an existing stairway down to the shoreline and a restroom connected to on-site septic on a vacant single-family residential lot in the Rural Shoreline Environment adjacent to Summit Lake is **GRANTED** subject to the following conditions:

1. The Applicants shall contact the WA Department of Natural Resources, Aquatic Lands Division to determine whether a lease agreement is necessary for the replacement dock.
2. The dock shall be painted, marked with reflectors, or otherwise identified so as to prevent unnecessarily hazardous conditions for water surface users during day or night.
3. The span between pilings for the replacement dock shall be eight feet or greater.

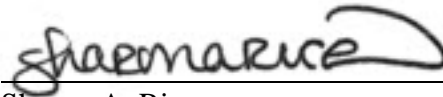
4. Prior to or in conjunction with the issuance of any building permit, all regulations and requirements of the Thurston County Environmental Health Department, Thurston County Public Works Department, Thurston County Resource Stewardship Department, and the August 2, 2012 Mitigated Determination of Non-Significance (Exhibit 1, Attachment f) shall be met.
5. There shall be no parking or travel of vehicles, storage of equipment, or staging of materials over any part of the on-site septic system.
6. The Applicants are required to comply with conditions of a Hydraulics Project Approval (RCW 77.55.100 and WAC 220-110) issued by the Washington State Department of Fish and Wildlife to construct the dock within the waters of Summit Lake.
7. Development of the proposed project must be consistent with all applicable policies and other provisions of the Shoreline Management Act, its rules, and the Shoreline Master Program for the Thurston Region.
8. Although a stormwater management plan/permit is not required, the proposed development shall incorporate best management practices for the treatment of stormwater as per the Drainage Design and Erosion Control Manual for Thurston County, as implemented by Thurston County Public Works Department.
9. No discharge of sediments into Summit Lake shall be permitted at any time.
10. The following note shall be placed on the construction documents:

No clearing, grading, filling or other construction activities shall be allowed within the Shoreline Master Program jurisdiction except as approved under this SSDP. There shall be no additional clearing or development except where exempted by and when prior authorization is obtained from the Thurston County Resource Stewardship Department.
11. Construction must commence within two years and all construction must be complete within five years of the effective date of this permit. The effective date is the date of the last action required on the shoreline permit and all other government permits and approvals that authorize the development to proceed.
12. All development shall be in substantial compliance with the drawings and site plan submitted and made part of this staff report, including modifications as required by this approval. Any expansion or alteration of this use will require approval of a new or amended Shoreline Substantial Development Permit. The Resource Stewardship Department will determine if any proposed amendment is substantial enough to require Hearing Examiner approval.
13. This approval does not relieve the Applicants from compliance with all other local, state and/or federal approvals, permits, and/or laws necessary to conduct the development

activity for which this permit is issued. Any additional permits and/or approvals shall be the Applicants' responsibility.

14. Construction pursuant to this permit shall not begin and is not authorized until 21 days from the date of filing of the Hearing Examiner's decision with the Department of Ecology as required in RCW 90.58.140(6) and WAC 173-27-130, or until all review proceedings initiated within 21 days from the date of filing have been terminated, except as provided in RCW 90.58.140(5)(a) and (b).

Decided July 23, 2013 by



Sharon A. Rice
Thurston County Hearing Examiner