

WHATCOM COUNTY HEARING EXAMINER

RE: Zoning Variance)	VAR2019-0008
Shoreline Conditional Use)	SHC2019-0007
Application for)	
)	FINDINGS OF FACT,
Phil & Vickie Rogers)	CONCLUSIONS OF LAW,
)	AND DECISION

SUMMARY OF APPLICATION AND DECISION

Application: The Applicants request approval of a Shoreline Conditional Use Permit to construct a garage attached to an existing single-family residence that is non-conforming with respect to the currently required Habitat Conservation Area buffer. The Zoning Variance Permit is to expand within the prescribed 25-foot front yard setback to construct the residential developments, addressed as 3982 Saltspring Drive, Ferndale, Washington.

Decision: The requested Zoning Variance and Shoreline Conditional Use Permits are approved, subject to conditions.

INTRODUCTION

The following Findings of Fact and Conclusions of Law are based upon consideration of the exhibits admitted and evidence presented at the public hearing.

FINDINGS OF FACT

I.
PRELIMINARY INFORMATION

Applicants: Phil and Vickie Rogers

Property Address: 3982 Saltspring Drive
Ferndale, Washington

Legal Description: Assessor's Parcel Numbers:380116 081456
Within Section 16, Township 38N, Range 01E, W.M.

Adjacent Water Body: Strait of Georgia

Shoreline Designation: Shoreline Residential

Statewide Significance: No

Zoning: Residential Rural

SEPA Review: Categorically Exempt pursuant to WAC 197-11-800

Applicable Provisions:

Authorizing Ordinances:

WCC 23.50	Applicability
WCC 23.70.010	Administrator
WCC 22.05	Project Permit Procedures
WCC 20.32	Residential Rural
WCC 20.84	Variances

Applicable Shoreline Provisions:

WCC 23.10	Governing Principles
WCC 23.20	Goals and Objectives
WCC 23.30.060	Shoreline Residential Area
WCC 23.50.070	Nonconforming Development
WCC 23.60	Shoreline Permits and Exemptions
WCC 23.60.040	Conditional Use Permit Criteria
WCC 23.60.100	Consolidated Permit Review
WCC 23.60.130	Public Hearings
WCC 23.90	General Policies and Regulations
WCC 23.90.130	Shoreline Bulk Provisions
WCC 23.100.110	Residential
WCC 23.110	Definitions

Legal Notices: Posted – Notice of Public Hearing, July 23, 2020

 Mailed – Notice of Application, June 11, 2019
 Notice of Public Hearing, July 15, 2020

 Published – Notice of Application, June 11, 2019
 Notice of Public Hearing, July 23, 2020

Hearing Date: August 05, 2020

Parties of Record:

Phil & Vickie Rogers
30 Windward Drive
Bellingham, WA 98229

Heidi Joostens
JWR Design
1045 Front Street
Lynden, WA 98264

Sam McDaniel, Planner
Planning and Development Services

Exhibits:

1. Shoreline Conditional Use Application
2. Zoning Variance Application
3. Preliminary Traffic Information
4. Stormwater Proposal Application
5. Deed
6. Customer Receipt
7. Site Plan
8. Agency Distribution List
9. Notice of Application
10. Legal Notice
11. Mailing Labels/List
12. Certificate of Mailing
13. Agency Comments
14. Staff Report
15. CA Assessment & Mitigation Plan
16. Addendum Mitigation Plan
17. Approved Mitigation Plan

- 18. Historical Permit #1
- 19. Historical Permit #2
- 20. Historical Permit #3

- 21. Certificate of Posting: Notice of Public Hearing, July 30, 2020

- 22. Bellingham Herald Legal Notice Public Hearing, July 23, 2020

II.

The Applicant is seeking a Zoning Variance and a Shoreline Conditional Use Permit to expand the existing single-family residence on a non-conforming parcel. The proposal is to add a garage with living space above on the landward side of the residence. The proposed expansion is 756 square feet and will be located landward of the existing residence but will encroach on the front yard setback required by the Zoning Ordinance.

III.

The Whatcom County Technical Review Committee has recommended approval, subject to conditions of the Shoreline Conditional Use Permit and the requested Zoning Variance Permit in the Staff Report entitled "Findings, Conclusions, and Recommendations," Exhibit 14 herein, dated July 16, 2020. The Applicant has indicated that there are no factual inaccuracies in Staff's factual findings and no objection to the Conditions of Approval requested by Staff. There was no public comment on the application at the public hearing or submitted as written comment. The Findings of Fact set forth in the Staff Report are incorporated herein by this reference, and are hereby adopted by the Hearing Examiner as Findings of Fact herein.

IV.

Any Conclusion of Law which is deemed a Finding of Fact is hereby adopted as such. Based on the foregoing Findings of Fact, now are entered the following:

CONCLUSIONS OF LAW

I.

In order for a Zoning Variance to be approved, it must satisfy the criteria of WCC

20.84.120 (1) through (3). This project does satisfy the criteria of WCC 20.84.120 (1) through (3). Specifically, it is found that:

- 1.1 That a variance if granted would not constitute a grant of special privilege, would not be based upon reasons of hardship caused by previous actions of the property owner, and would not be granted for pecuniary reasons alone;
- 1.2 That because of special circumstances applicable to the subject property, the strict application of the zoning ordinance is found to cause a hardship and does deprive the subject property of a use or improvement otherwise allowed in the identical zone classification; and
- 1.3 That the granting of a variance would not be materially detrimental to the public welfare, or injurious to the property or improvements in the vicinity and zone in which the subject is situated.

Subject to Conditions of Approval, a Zoning Variance would be consistent with the applicable Variance Criteria.

The Applicants' request for a Shoreline Conditional Use Permit to construct a garage attached to the existing single-family residence that is non-conforming with respect to Habitat Conservation Area buffer. Pursuant to WCC 23.60.010.C, the project was reviewed for consideration of potential cumulative effects that would result if similar developments were permitted in the area of the subject property. The proposed 756 square foot expansion is landward of the existing residence and no additional buffer impacts are anticipated. This project has been determined to be located within a Special Flood Hazard Area, specifically Flood Zone AE. Information from Whatcom County Assessor's Office, the development is less than 50% and is considered to be less than substantial. Accordingly, no flood proofing conditions are required for the structure. A Habitat Assessment is not required because the development is over previously developed surface.

II.

Any Finding of Fact deemed to be a Conclusion of Law is hereby adopted as such. Based on the foregoing Findings of Fact and Conclusions of Law, now is entered the following:

DECISION

A Zoning Variance Permit and Shoreline Conditional Use Permit are hereby granted to Phil and Vickie Rogers to expand an existing single-family residence on a non-conforming parcel to add a garage with 756 sq. ft. of living space above on the landward side of the residence, located on Assessor's Parcel No. 380116 081456, addressed as 3982 Saltspring Drive, Ferndale, Washington, subject to the following conditions:

1. *The proposed work shall be consistent with the scope of the application materials provided reviewed by staff and consistent with the site plans stamped "Shoreline Approved" on May 11, 2018. Any changes will require additional review by the Whatcom County Shoreline Administrator and/or the Whatcom County Hearing Examiner.*
2. *Issuance of this shoreline permit does not release the applicant from any other local, State, regional or Federal statutes or regulations applicable to the proposed development.*
3. *Except as authorized by this decision, the proposal must comply with all bulk and dimensional setback requirements as required by the Whatcom County Shoreline Management Program and the Whatcom County Zoning Code.*
4. *Best Management Practices (BMPs) will be required in order to address any construction related impacts to water quality, the shoreline, and/or existing habitat.*
5. *The applicant shall obtain a building permit from the Whatcom County Planning and Development (WCPDS) – Building Services Division prior to any work on the subject property. The above required building permit shall be reviewed by the Shoreline Administrator to ensure consistency with the conditions of this shoreline approval prior to issuance of said permit.*
6. *All development shall comply with the Whatcom County Development Standards (WCDS).*

7. *Applicant shall apply for a revocable encroachment permit.*
8. *All construction debris shall be removed from the shoreline environment upon completion of the project and disposed of in accordance to all applicable regulations.*
9. *The project shall not result in significant degradation of ground or surface waters.*
10. *A covenant and agreement shall be recorded stating that the attached garage space shall be left open and be utilized for two (2) off-street parking spaces as defined by the applicable provisions of WCC 20.80.500.*
11. *Construction shall be commenced within two (2) years of the effective date of this shoreline exemption, as defined by 23.60.190(A)(3), and shall be completed in five (5) years. The Shoreline Administrator may grant a single extension for a period of not more than one (1) year based on a showing of good cause. Such request must be filed with the Shoreline Administrator before the expiration date described above.*
12. *Should archaeological resources (e.g. shell midden, faunal remains, stone tools) be observed during project activities, all work in the immediate vicinity should stop, and the area should be secured. The Washington State Department of Archaeology and Historic Preservation (Gretchen Kaehler, Local Government Archaeologist 360-586-3088) and the Lummi Nation Tribal Historic Preservation Office (Lena Tso, THPO 360-312-2257; Tamela Smart, Deputy THPO 360-312-2253) should be contacted immediately in order to help assess the situation and to determine how to preserve the resource(s). Compliance with all applicable laws pertaining to archaeological resources is required.*
13. *If ground disturbing activities encounter human skeletal remains during the course of construction, then all activity will cease that may cause further disturbance to those remains. The area of the find will be secured and protected from further disturbance. The finding of human skeletal remains will be reported to the county medical examiner/coroner and local law enforcement in the most expeditious manner possible. The remains will not be touched, moved, or further disturbed. The county medical examiner/coroner will assume jurisdiction over the human skeletal remains and make a determination of whether those remains are forensic or non-forensic. If the county medical examiner/coroner determines the remains are non-forensic, then they will report that finding to the Department of Archaeology and Historic Preservation (DAHP) who will then take jurisdiction over the remains. The DAHP will notify any appropriate cemeteries and all affected tribes of the find. The State Physical Anthropologist will make a determination of whether the remains are Indian or Non-Indian and report that finding to any appropriate cemeteries and the affected tribes. The DAHP will then handle all consultation with the affected parties as to the future preservation, excavation, and disposition of the remains.*

NOTICE OF POTENTIAL REVOCATION AND PENALTIES

This Approval is subject to all of the above-stated conditions. Failure to comply with them may be cause for its revocation. Complaints regarding a violation of the conditions of this permit should be filed with Whatcom County Planning and Development Services. The Hearing Examiner may not take any action to revoke this approval without further public hearing. Violations of this title shall constitute Class I civil infractions pursuant to RCW 7.80.120. The maximum penalty and the default amount for such violations shall be consistent with Chapter 7.80.RCW.

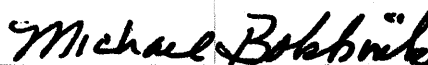
**NOTICE OF APPEAL PROCEDURES FROM FINAL DECISIONS OF
THE WHATCOM COUNTY HEARING EXAMINER**

This action of the Hearing Examiner is final.

The applicant, any party of record, or any county department may appeal any final decision of the hearing examiner to Superior Court or other body as specified by WCC 22.05.020. The appellant shall file a written notice of appeal within 21 calendar days of the final decision of the hearing examiner, as provided in RCW 36.70C.040.

More detailed information about appeal procedures is contained in the Whatcom County Code Title 22 and Title 23.60 and which is available at <http://www.codepublishing.com/WA/WhatcomCounty>.

DATED this 7th day of August 2020,



Michael Bobbink, Hearing Examiner

WHATCOM COUNTY
Planning & Development Services
5280 Northwest Drive
Bellingham, WA 98226-9097
360-778-5900, TTY 800-833-6384
360-778-5901 Fax



Mark Personius, AICP
Director
EXHIBIT

#14

WHATCOM COUNTY PLANNING AND DEVELOPMENT SERVICES
REVISED STAFF REPORT
Dated August 5, 2020

The application of
Phil & Vickie Rogers
Shoreline Conditional Use Permit &
Zoning Variance Permit

FINDINGS, CONCLUSIONS
AND RECOMMENDATIONS for
SHC2019-00007 & VAR2019-
00008

SUMMARY OF APPLICATION AND RECOMMENDATION

Application: The applicant requests approval of a Shoreline Conditional Use Permit for the construction of a garage attached to an existing single-family residence that is nonconforming with respect to Habitat Conservation Area buffer. Additionally, the applicant is seeking approval of a Zoning Variance to expand within the prescribed 25 foot front yard setback to construct said residential developments.

Recommendation: Pursuant to Chapter 90.58 RCW, staff recommends approval of the subject Shoreline Conditional Use Permit and Zoning Variance, subject to conditions of approval outlined within this permit.

PRELIMINARY INFORMATION

Applicant: Phil & Vickie Rogers
30 Windward Dr.
Bellingham, WA 98229

Agent: JWR Design
104 Front St.
Lynden, WA 98264

Property Location: 3982 Saltspring Dr.

Legal Description: Within Section 16, Township 38N, Range 01E, W.M.
Assessor's Parcel Number: 380116081456

Adjacent Water Body: Straight of Georgia

Shoreline Designation: Shoreline Residential

Statewide Significance: No

Zoning: Residential Rural

SEPA Review: Categorically Exempt pursuant to WAC 197-11-800

Applicable Provisions:
Authorizing Ordinances:

WCC 23.50	Applicability
WCC 23.70.010	Administrator
WCC 22.05	Project Permit Procedures
WCC 20.32	Residential Rural
WCC 20.84	Variances

Applicable Shoreline Provisions:

WCC 23.10	Governing Principles
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WCC 23.50.070	Nonconforming Development
WCC 23.60	Shoreline Permits and Exemptions
WCC 23.60.040	Conditional Use Permit Criteria
WCC 23.60.100	Consolidated Permit Review
WCC 23.60.130	Public Hearings
WCC 23.90	General Policies and Regulations
WCC 23.90.130	Shoreline Bulk Provisions
WCC 23.100.110	Residential
WCC 23.110	Definitions

INTRODUCTION

The applicant requests a Shoreline Conditional Use Permit and Zoning Variance to expand an existing single-family residence on a non-conforming parcel. Specifically, the proposal is to add a garage with living space above on the landward side of the residence. The proposed expansion is 756 square feet.

PUBLIC NOTICE AND COMMENT

Requirements for public notice are contained in Chapter 2.33 WCC.

Notice of Application: Pursuant to WCC 22.05.070, Notices were mailed on June 11, 2019 to property owners whose boundaries lie within 1,000 feet of the subject property. The site was physically noticed on June 11, 2019 and the project was noticed in the Bellingham Herald on the same day.

Public Comment: No Comments were received during the comment period.

STATE ENVIRONMENTAL POLICY ACT (SEPA)

The State Environmental Policy Act (SEPA) requires applicants to disclose potential impacts to the environment unless the proposal is categorically exempt from the SEPA threshold review.

The subject application is categorically exempt the SEPA threshold review.

FINDINGS & CONCLUSIONS

WCC 23.60.100.B states that the provisions of Chapter 22.05 shall apply to the consolidated application, review, and approval of applications requiring an open record hearing. The proposed project requires review of a zoning variance and shoreline conditional use permit. The zoning variance requires an open record hearing, and under consolidated review the shoreline conditional use application shall also be considered under this review. This requires the decision maker for the open record hearing to be the decision maker for the consolidated review of the zoning variance and shoreline conditional use permit.

Residential uses are generally allowed under Whatcom County's Shoreline Management Program (SMP), under Whatcom County Code (WCC) 23.100.110. Residential development within the Shoreline Residential designation is permitted and subject to policies and regulations of the SMP. Pursuant to WCC 23.90.130.C, the required shoreline setback is established by Whatcom County Code 16.16. Pursuant to WCC 16.16.740, the required Habitat Conservation Area (HCA) buffer is 150 ft. from the Ordinary High Water Mark (OHWM). Additionally, WCC 16.16.265.D provides that buildings must be set back 10 ft. from any required buffer. Staff has determined that the subject parcel is non-conforming as defined by WCC 23.50.070.M.

Pursuant to WCC 23.60.130 the Shoreline Conditional Use application requires a hearing because it also requires a Zoning Variance. As a non-conforming parcel, development of the site is constrained per the requirements of WCC 23.50.070(K). The code criteria for WCC 23.50.070.J & K are provided below:

- J. The enlargement or expansion of single-family residences by the addition of space to the exterior of the main structure or normal appurtenances is permitted without a conditional use permit or variance once during the life of the structure (100 years). The structure shall be located landward of the ordinary high water mark, and any expansion of the footprint is landward of the existing building footprint (not the side yard), and any vertical expansion is within the existing building footprint; provided, that the following conditions are met:
 - 1. Enlargements, expansions, or additions that increase the existing primary structure or normal appurtenances by up to 250 square feet of gross floor area as defined by Chapter 23.110 WCC shall be allowed provided the expansion or addition will occur on a previously impacted impervious surface and the expansion is not waterward of the common-line setback as illustrated in Appendix F.

2. Enlargements, expansions, or additions that increase the total footprint of the existing primary structure or normal appurtenances by 250 to 500 square feet of gross floor area as defined by Chapter 23.110 WCC shall be allowed; provided, that the addition will occur on a previously impacted impervious surface and the expansion is not waterward of the common-line setback as illustrated in Appendix F; further provided, that the shoreline is enhanced by the equivalent area of a building footprint that is expanded. If enhanced through planting, the administrator shall require a vegetation management plan consistent with WCC 23.90.060(B)(2).

- K. The administrator shall require a conditional use permit if the enlargement or expansion of single-family residences by the addition of space to the exterior of the main structure or normal appurtenances is in excess of those allowances provided in subsection J of this section.

The proposed project meets the criteria of WCC 23.50.070.K and therefore qualifies for review via a shoreline conditional use permit.

In addition, WCC 23.60.040.B states that uses specifically classified or set forth in the SMP as conditional uses may be authorized, provided the applicant/proponent can demonstrate all of the following:

1. That the proposed use will be consistent with the policy of RCW 90.58.020 and this program.
2. That the proposed use will not interfere with normal public use of public shorelines.
3. That the proposed use of the site and design of the project will be compatible with other permitted uses within the area.
4. That the proposed use will not cause adverse effects to the shoreline environment in which it is to be located.
5. That the public interest suffers no substantial detrimental effect.

In the granting of all shoreline conditional use permits, consideration shall be given to the cumulative environmental impact of additional requests for like actions in the area. For example, if conditional use permits were granted for other developments in the area where similar circumstances exist, the sum of the permitted actions should also remain consistent with the policy of RCW 90.58.020 and should not produce significant adverse effects to the shoreline ecological functions and processes or other users.

The subject property consists of one lot that is approximately 5,700 sq. ft. in size and is located adjacent to the Straight of Georgia in Ferndale, Washington. The existing home has a foundation footprint of approximately 1,127 sq. ft. The area between the home and shore has been modified by previous owners. The applicants have submitted a mitigation plan that includes the removal of a fire pit and other unpermitted developments and creating a 290 square foot buffer restoration area.

The applicants are proposing a footprint expansion of approximately 756 sq. ft. to increase the living area of the existing house and the addition of an attached garage. Approximately 437 square feet of the new garage will be constructed within the prescribed 25-foot front yard setback.

Single-family residences are listed as a preferred use in RCW 90.58.020. The subject site is located on privately owned property, and the proposed project will not interfere with normal public use of public shorelines. Surrounding properties that are located within the same residential area as the subject property are developed with single-family residences and normal appurtenances of similar size and scale as the proposed residence. The proposed expansion will not result in any new disturbance to the HCA buffer, and will be no further water ward. The project as proposed will not result in unreasonable adverse effects to the shoreline environment. It does not appear the public interest will suffer any substantial detrimental effect as a result of the approval of this project. The proposed development, as conditioned, will not cause adverse effects to the shoreline environment in both the short- and long-term.

The project was reviewed by critical areas staff, and it has been determined that the project requires mitigation as a result of unpermitted developments within the HCA Buffer by previous owners. The applicants have agreed to remove the unpermitted developments and have received approval of a mitigation plan.

Pursuant to WCC 23.60.010.C the project was reviewed for consideration of potential cumulative effects that would result if similar developments were permitted in the area of the subject property. The proposed 756 square foot expansion is landward of the existing residence and no additional buffer impacts are anticipated. As described above mitigation is required due to illegal development occurring over time. Therefore, the project will not result in a net loss of ecological functions and values. No detrimental impacts were identified to the shoreline environment during the course of this permit review. The proposal was reviewed for lot coverage compliance with the Whatcom County Zoning Ordinance and determined to be in compliance. The proposal as conditioned appears to comply with the density standards, development standards, bulk and dimensional setbacks, and critical area requirements. As such, additional approvals for additional developments where similar circumstances exist are not likely to represent a cumulative environmental impact to the shoreline. It has also been determined that no use conflicts or view issues will result from the proposed expansion. It is the opinion of staff that this project as proposed and conditioned meets the ecological protection policies of the Whatcom County SMP resulting in no net loss of ecological functions and process and that the sum of similar permitted actions appears to comply with the policy of RCW 90.58.020.

This project has been determined to be located within a Special Flood Hazard Area (SFHA), specifically Flood Zone AE. Pursuant to information obtained from the Whatcom County Assessor's Office the development is less than 50% and is considered to be less than substantial. Accordingly, no flood proofing conditions are required for the structure. A Habitat Assessment is not required because the development is over previously developed surface.

Zoning Variance - Applicable Policies and Regulations

In order for a variance to be approved it must satisfy the criteria of WCC 20.84.120 1 through 3. In summary, these criteria state that any variance granted shall not constitute a grant of special privilege, be based upon reasons of hardship caused by previous actions of the property owner, nor be granted for pecuniary reasons alone, but be granted because of special circumstances applicable to the subject property, including size, shape, topography, location or surrounding, and when the strict application of the zoning ordinance is found to cause a hardship and

deprive the subject property of a use or improvement otherwise allowed in the identical zoning classification. Aesthetic considerations or design preferences without reference to restrictions based upon the physical characteristics of the property do not constitute sufficient hardship under this section, and the granting of this variance shall not be materially detrimental to the public welfare, or injurious to the property or improvement in the vicinity and zone in which the subject is situated.

The following circumstances, pursuant to WCC 20.84.120 (1)-(3), shall be found to apply in order to grant a variance:

1. ***That any variance granted shall not constitute a grant of special privilege, be based upon reasons of hardship caused by previous actions of the property owner, nor be granted for pecuniary reasons alone.***

Staff has no reason to believe that this variance has been requested for financial reasons or a hardship caused by actions of previous owners. The applicant has proposed to add 756 square feet consisting of a combination of living space and attached garage. Due to the limiting size of the lot, location of the existing residence and application of setback requirements within the SMP the applicant is requesting the variance.

Staff also believes that this is not a grant of special privilege. During the conducted site inspection, staff was able to note that several single-family residences and accessory structures along Saltspring Drive have been erected within the 25-foot roadside setback to accommodate similar developments. Similar variance requests have been granted by the Hearing Examiner within the area for homes of similar size and scale.

2. ***Because of special circumstances applicable to the subject property, including size, shape, topography, location or surrounding, the strict application of the zoning ordinance is found to cause a hardship and deprive the subject property of a use or improvement otherwise allowed in the identical zone classification. Aesthetic considerations or design preferences without reference to restrictions based upon the physical characteristics of the property do not constitute sufficient hardship under this section.***

Outside of the ordinary high water mark of the shoreline, the subject parcel contains an area of approximately 5,700 square feet. The lot size is well below the minimum lot size of the Rural Residential zone. The applicant's lot size is similar in size to other lots on Sandy Point. Because of the setbacks imposed by the SMP and Zoning Ordinance, the development of this and other surrounding lots is more difficult than in other commonly zoned parcels in the county. Similar variance requests within the area have been granted by the Hearing Examiner for similar proposals. Similar to the hardships substantiated in those cases, this proposed development is also located on a substandard lot, contains existing development that does not conform to the current setbacks and further is subject to the provisions of the SMP. The subject parcel is also located within an area common to coastal flooding. As such, development closer to the rear of the property will help reduce the likelihood of property damage.

3. ***The granting of the variance will not be materially detrimental to the public welfare, or injurious to the property or improvements in the vicinity and zone in which the subject is situated.***

The granting of the variance will not be detrimental to the public welfare or injurious to the property or improvements in the vicinity. During the public comment period, staff received no adverse public comments.

PUBLIC COMMENTS

No Comments were received during the comment period.

***Official: Sam McDaniel
Planner II***



Dated: June 19, 2020

CONDITIONS ASSOCIATED WITH SHC2019-00007 & VAR2019-00008

1. *The proposed work shall be consistent with the site plan dated February 15, 2019. Any changes will require additional review by the Whatcom County Shoreline Administrator and/or the Whatcom County Hearing Examiner.*
2. *Issuance of this shoreline permit does not release the applicant from any other local, State, regional or Federal statutes or regulations applicable to the proposed development.*
3. *Except as authorized by this decision, the proposal must comply with all bulk and dimensional setback requirements as required by the Whatcom County Shoreline Management Program and the Whatcom County Zoning Code.*
4. *Best Management Practices (BMPs) will be required in order to address any construction related impacts to water quality, the shoreline, and/or existing habitat.*
5. *The applicant shall obtain a building permit from the Whatcom County Planning and Development (WCPDS) – Building Services Division prior to any work on the subject property. The above required building permit shall be reviewed by the Shoreline Administrator to ensure consistency with the conditions of this shoreline approval prior to issuance of said permit.*
6. *All development shall comply with the Whatcom County Development Standards (WCDS).*
7. *Applicant shall apply for a revocable encroachment permit.*
8. *All construction debris shall be removed from the shoreline environment upon completion of the project and disposed of in accordance to all applicable regulations.*
9. *The project shall not result in significant degradation of ground or surface waters.*
10. *A covenant and agreement shall be recorded stating that the attached garage space shall be left open and be utilized for two (2) off-street parking spaces as defined by the applicable provisions of WCC 20.80.500.*
11. *Building permit shall be routed to Critical Areas staff (Erin Page) for review*
12. *The following shall be submitted for a complete building permit application:*
 - a. *Site plan that shows lot lines, OHWM, mitigation areas*
 - b. *Conservation Easement draft site plan for mitigation planting areas*
 - c. *Fees for 5 years of monitoring under a new mitigation permitting case*
 - d. *Assignment of savings in lieu of surety bond for the mitigation in the amount of \$3175.00 (<http://whatcomcounty.us/DocumentCenter/View/2176/Assignment-of-Savings-Agreement-and-Understanding-in-Lieu-of-Surety-Bond---Mitigation-PDF>). Please contact staff if you prefer a bond over an assignment of savings.*

- e. Completed "Agreement to Maintain Mitigation" form (<http://whatcomcounty.us/DocumentCenter/View/2170/Agreement-to-Maintain-Mitigation-Site-PDF>).
13. Construction shall be commenced within two (2) years of the effective date of this shoreline exemption, as defined by 23.60.190(A)(3), and shall be completed in five (5) years. The Shoreline Administrator may grant a single extension for a period of not more than one (1) year based on a showing of good cause. Such request must be filed with the Shoreline Administrator before the expiration date described above.
 14. Should archaeological resources (e.g. shell midden, faunal remains, stone tools) be observed during project activities, all work in the immediate vicinity should stop, and the area should be secured. The Washington State Department of Archaeology and Historic Preservation (Gretchen Kaehler, Local Government Archaeologist 360-586-3088) and the Lummi Nation Tribal Historic Preservation Office (Lena Tso, THPO 360-312-2257; Tamela Smart, Deputy THPO 360-312-2253) should be contacted immediately in order to help assess the situation and to determine how to preserve the resource(s). Compliance with all applicable laws pertaining to archaeological resources is required.
 15. If ground disturbing activities encounter human skeletal remains during the course of construction, then all activity will cease that may cause further disturbance to those remains. The area of the find will be secured and protected from further disturbance. The finding of human skeletal remains will be reported to the county medical examiner/coroner and local law enforcement in the most expeditious manner possible. The remains will not be touched, moved, or further disturbed. The county medical examiner/coroner will assume jurisdiction over the human skeletal remains and make a determination of whether those remains are forensic or non-forensic. If the county medical examiner/coroner determines the remains are non-forensic, then they will report that finding to the Department of Archaeology and Historic Preservation (DAHP) who will then take jurisdiction over the remains. The DAHP will notify any appropriate cemeteries and all affected tribes of the find. The State Physical Anthropologist will make a determination of whether the remains are Indian or Non-Indian and report that finding to any appropriate cemeteries and the affected tribes. The DAHP will then handle all consultation with the affected parties as to the future preservation, excavation, and disposition of the remains.