



MEDINA, WASHINGTON

HEARING EXAMINER
A Remote Public Hearing
Monday, July 29, 2024 – 11:00 AM

AGENDA

Virtual Meeting Participation

The scheduled hearing will be held using remote meeting technology. Please either log in or call in a few minutes prior to the start of the meeting to participate. Written comments may still be submitted prior to the hearing by emailing Jonathan Kesler, AICP, Planning Manager, at jkesler@medina-wa.gov. Written comments are given the same weight as verbal public testimony.

Join Zoom Meeting

<https://medina-wa.zoom.us/j/84979166403?pwd=tyHbTcDDxGgJhEXfA74YhAb3qwINSJ.1>

Meeting ID: 849 7916 6403

Passcode: 314227

One tap mobile

+12532158782,,84979166403#,,,,*314227# US (Tacoma)

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Public Hearings:

***NOTE:** The Hearing Examiner has the discretion to limit testimony to relevant non-repetitive comments and to set time limits to ensure an equal opportunity is available for all people to testify.*

PRE-DECISION HEARING:

File No.: P-24-005 Non-Administrative Substantial Development Permit

Applicant or

Agent: Zion Napier, Agent, for Kevin Johnson, property owner

Proposal: Non-Administrative Substantial Development Permit to install two (2) mooring piles. The piles will be placed north of the existing dock on the project site.

Location: 226 Overlake Dr. W., Medina, WA 98039, Parcel # 3835503173

Legal Info: KENWOOD PARK ADD S 18.60 FT OF LOT 15 ALL LOT 28 IN BLK 21 TGW LOTS 15-16-17 IN BLK 24 & THOSE PORS LOT 29 BLK 21 LOT 14 BLK 24 & POR VAC KENWOOD BLVD LY ELY OF LOTS 29-30 SD BLK 21 ALL LY SLY OF FOLG LN - BEG SW COR SD LOT 15 BLK 21 TH E ALG S LN SD LOTS 15 & 28 DIST OF 174.56 FT TH N 32-19-53 E DIST OF 39.05 FT AP ON N LN SD LOT 28 & TPOB TH CONTG N 32-19-53 E DIST 64.61 FT TH S 56-37-43 E

DIST 3.15 FT TH N 30-54-13 E DIST 7.44 FT TH N 69-50-04 E DIST 36.74 FT TH N 72-43-33 E DIST 14.14 FT TH N 89-21-19 E DIST 31.20 FT TAP 55.64 FT E OF & 10.46 FT N OF NW COR LOT 15 BLK 24 & TERM THIS LN DESC TGW 2ND CL SH LDS ADJ TGW POR LOTS 18 SD BLK 24 & LOT 27 SD BLK 21 & POR VAC ST ADJ LY NLY OF LN DAF BEG NW COR LOT 16 SD BLK 21 TH S 79-23-30 E ALG N LN SD LOT & ELY PROD THOF DIST OF 188.38FT TO TPOB TH CONTG S79-23- 30 E 110FT M/L TO EXIST CONC BULK HEAD TH CONTG S 79-23-30 E TO SH OF LK WASH TH SLY ALG SD SH LN 20 FT M/L TAP 20 FT S OF AS MEAS AT R/A TO ELY PROD OF N LN SD LOT 16 TH N 79-23-30 W PLW SD PROD TO SD BULK HEAD TH CONTG N 79-23-30 W 70 FT M/L TAP WCH BRS S 52-49-36 E FR TPOB TH N 52-49-36 W 44.72 FT TO TPOB TGW 2ND CL SH LDS ADJ AKA LOT C MEDINA LLA # 87-2 REC #8703160330 REV BY LLA #87-6 REC 8706170940

Prepared by: Thomas Carter, Assoc. Planner, LDC, Inc.; Planning Consultant for the City of Medina

PART 1 – GENERAL INFORMATION

ZONING: R-20, Single Family Residential

COMPREHENSIVE PLAN DESIGNATION: Single Family Residential

SHORELINE ENVIRONMENT DESIGNATION: Shoreline Residential

CRITICAL AREAS: Shoreline, as regulated below

ENVIRONMENTAL (SEPA) REVIEW: The proposal is exempt from environmental (SEPA) review pursuant to WAC 197-11-800(2)(e), Minor New Construction.

EXHIBITS:

1. Staff Report
2. Non-Administrative Substantial Development Application, received January 25, 2024
3. Site Plan, received January 25, 2024
4. No Net Loss Assessment, received January 25, 2024
5. State Environmental Policy Act Checklist, received January 25, 2024
6. Quitclaim Deed received January 25, 2024
7. Owner's Declaration of Agency received January 25, 2024
8. Mailing Label's received January 25, 2024
9. Determination of Complete Application dated February 7th, 2024
10. Legal Notices
 - a. Notice of Application dated, February 9, 2024
 - b. Declaration of Mailing dated February 9, 2024
 - c. Declaration of Posting dated February 9, 2024
 - d. Notice of Hearing dated March 12, 2024
 - e. Notice of Hearing- Cancelled dated April 4, 2024
 - f. Notice of Hearing dated July 11, 2024

11. Review Comment Letter- Grette Associates dated April 2, 2024
12. Technical Memorandum- Grette Associates dated April 1st, 2024
13. Comment Response Letter dated April 16th, 2024
14. Revised No Net Loss Assessment April 16th, 2024
15. Technical Memorandum Revision Review- Grette Associates dated May 22nd, 2024

PART 2 – SITE CHARACTERISTICS

EXISTING CONDITIONS: The subject property is developed with a single-family residence and related site improvements.

SURROUNDING ZONING:

Direction	Zoning	Present Use
North	R-20 District	Residential
South	R-20 District	Residential
East	Lake Washington	Water Body
West	R-20	Residential

ACCESS: Ingress and egress are from Overlake Drive East.

PART 3 – COMPREHENSIVE PLAN

The residential nature of the City’s shoreline makes preservation of its character, while encouraging good stewardship and enjoyment of the shoreline, including protecting and preserving shoreline ecological functions, the primary vision of the shoreline master program. The following comprehensive plan goals and policies apply to the proposed project:

SM-P4.4 At a minimum, development should achieve no net loss of ecological functions, even for exempt development.

SM-P8.2 The city should take steps to assure that shoreline modifications individually and cumulatively do not result in a net loss of ecological function. This is to be achieved by preventing unnecessary shoreline modifications, by giving preference to those types of shoreline modifications that have a lesser impact on ecological functions, and by requiring mitigation of identified impacts resulting from shoreline modifications.

SM-P9.4 Moorage facilities should be constructed of materials that will not adversely affect water quality or aquatic plants and animals in the long term and have been approved by applicable state agencies.

PART 4 – AGENCY REVIEW/PUBLIC COMMENT

NOTICES (Exhibit 5):

Application received:	January 25, 2024
Determination of Completeness:	February 07, 2024
Notice of Application:	February 09, 2024

Notice of Hearing: March 12, 2024
Notice of Hearing Cancelled: April 04, 2024

The application was received on November 17th, 2023, and was determined complete on February 07, 2024, pursuant to MMC 16.80.100. A Notice of Application was issued on February 09th, 2024, by mailing to property owners pursuant to MMC 16.80.140(B)(2); posting on-site; and posting at other public notices locations (City Hall, Medina Post Office, Park Board, and City of Medina website). A 14-day comment period was used pursuant to MMC 16.80.110(B)(7). A Notice of Hearing was issued on March 12, 2024, consistent with MMC 16.80.120. The notice was mailed to property owners pursuant to MMC 16.80.140(B)(2), published in *The Seattle Times* newspaper, and posted on the site and other public notices locations (City Hall, Medina Post Office, Medina Park Posting Board, and City of Medina website). The city then issued a Notice of Hearing Cancelled on April 4, 2024. A new Notice of Hearing was issued July 11, 2024, consistent with MMC 16.80.120. The notice was mailed to property owners pursuant to MMC 16.80.140(B)(2), published in The Seattle Times newspaper, and posted on the site and other public notices locations (City Hall, Medina Post Office, Medina Park Posting Board, and City of Medina website).

GENERAL PUBLIC COMMENTS: As of the date of the staff report, the City has not received any public comment regarding the proposed project.

AGENCY COMMENTS: No agency comments were received.

PART 5 – STAFF ANALYSIS

GENERAL:

1. Kevin Johnson is the owner and taxpayer of record of the property identified as 226 Overlake Drive East, tax parcel no. 3835003173, according to the Statutory Warranty Deed (Exhibit 6). The property owner has authorized Zion Napier of Seaborn Pile Driving Co. to act as the agent on behalf of the owner under the Owner’s Declaration of Agency Application (Exhibit 5).
2. The property is zoned R-20 and is approximately 17,820 square feet (1.03 acres) in size). The lot is panhandled shaped lots. The lot is developed with a single-family dwelling and related site improvements, including driveway, a dock, and landscaping.
3. The applicant has requested to install (2) new mooring pile on the eastern portion of the property approximately 30-feet of the ordinary high-water mark of Lake Washington and within the geologic hazard critical area with Erosion Hazard Area and Moderate to Severe Liquefaction.

ENVIRONMENTAL (SEPA) REVIEW:

4. The proposal is exempt from environmental (SEPA) review pursuant to WAC 197-11-800(2)(e), Minor New Construction.

ANALYSIS OF THE NON-ADMINISTRATIVE SUBSTANTIAL DEVELOPMENT PERMIT:

5. The MMC 16.72.100(D) requires a non-administrative substantial development permit for activities and uses defined as “development” pursuant to RCW 90.58.030(3)(a) and

located within the shoreline jurisdiction as defined by the Shoreline Management Act. The Johnson Residence project is proposing to install (2) mooring piles. The proposed structures meet these criteria, and the proposed project does not qualify for an exemption as set forth in MMC 16.70.030(D) or qualify for an administrative substantial development permit as set forth in MMC 16.71.050. Therefore, a non-administrative substantial development permit is required to authorize the proposed project.

6. The shoreline use table is codified in MMC 16.62.040 and sets forth that the proposed use (piers, docks, boat lifts, and moorage pilings) is permitted in the site's Shoreline Residential environment designation.
7. The MCC 16.65.040 establishes the design standards for mooring piles in Medina. MCC 16.65.040 requires that the minimum distance of the moorage piles be 30 feet and ten feet of water depth. The proposed mooring pile is located 30 feet waterward from the ordinary high-water mark and a water depth of 14 feet deep. Which meets the requirement outlined for the location of the moorage pile.
8. The MMC 16.66.010(B) requires that, to assure no net loss of shoreline ecological functions, applicants must demonstrate a reasonable effort to analyze environmental impacts from a proposal and include measures to mitigate impacts to shoreline ecological functions.

The applicant has prepared an Ecological No Net Loss Assessment Report (Exhibit 4); the No Net Loss Report was prepared by a professional biologist and details the direct and indirect impacts, avoidance and minimization measures, shoreline planting plan, conservation measures, and best management practices that ensures the proposed project will not yield a loss of ecological function. Grette Associates reviewed the submitted No Net Loss Assessment dated January 2024 and determined that revisions were needed to comply with the requirements of Medina's Shoreline Management Plan as well as assure that the project wouldn't contribute to a net loss of ecological function. A Technical Memorandum by Grette Associates and Review Letter was sent to the applicant April 2nd, 2024, which requested additional information, for the report to be considered compliant with the SMP standards. The applicant submitted a revised report incorporating recommendations outlined in the Technical Memorandum dated April 17, 2024. Upon review, Grette Associates deemed that the revised report addressed their concerns. Grette Associates also concluded that the revised document addressing their comments would provide sufficient information to adequately address no net loss and critical areas requirements and suggested that a Directors Authorization (Exhibit 17) per MMC 16.66.010 and MCC 16.67.050 would be appropriate. Therefore, the applicant has demonstrated a reasonable effort to analyze environmental impacts from its proposed replaced pier and boat lift structure and has included measures to mitigate potential impacts to shoreline ecological functions.

PART 6 – CONCLUSIONS

1. Pursuant to MMC 16.72.100(C) and MMC 16.80.060(C), the Hearing Examiner has the authority to hold a public hearing and make decisions on applications. The applicant has requested the non-administrative substantial development permit and SEPA threshold review to construct and install (2) moorage pile waterward of the ordinary high watermark.

2. Proper notice for this public hearing has been provided. Notices were posted on the property and mailed to surrounding property owners within 300 feet, published in the Seattle Times newspaper on July 11, 2024, more than 15 days prior to the date of the hearing (Exhibit 10f).
3. Pursuant to MMC 16.72.100(F), a substantial development permit may only be approved if the following criteria are met:
 - a. *The proposed development is consistent with the policy and provisions of the State Shoreline Management Act of 1971 (chapter 90.58 RCW).*

CONCLUSION: The Medina Shoreline Master Program (SMP) has been adopted in a manner which is consistent with the policies and provisions of the Washington Shoreline Management Act (“the Act,” RCW 90.58). MMC 16.60.060(A) set for that “all uses and development proposal, including those that do not require a permit, must comply with the policies and regulations established by the Act as expressed through the shoreline master program” (emphasis added). Because the Medina SMP has been adopted to express the Act’s policies and regulations, and applicant’s consistency with the provisions of the Medina SMP inherently conveys consistency with the policies and provisions of the Act. As is concluded in Part 5 of this staff report, the proposed project is consistent with the provisions of the Medina SMP’ therefore, this criterion has been satisfied.

- b. *The proposed development is consistent with the State Shoreline Management Permit and Enforcement Procedures (chapter 173-27 WAC).*

CONCLUSION: The Medina SMP has been adopted in a manner which is consistent with the guidelines of WAC Chapter 173-27. MMC 16.60 has been adopted under the authority of RCW 90.57 and WAC Chapter 173-27 (MMC 16.60.040), and its purpose is to comply with WAC Chapter 173-27 (MMC 16.60.030). Because the Medina SMP has been adopted in a manner which complies with WAC Chapter 173-27, an applicant’s consistency with the provisions of the Medina SMP inherently conveys consistency with WAC Chapter 173-27. As is concluded in Part 5 of this staff report, the proposed project is consistent with the provisions of the Medina SMP; therefore, this criterion has been satisfied.

- c. *The proposed development is consistent with the provisions of the city shoreline master program.*

CONCLUSION: As has been demonstrated in the analysis provided in Part 5 of this staff report, the applicant’s proposal for the installation of 2 moorage piles is consistent with all germane provisions of the Medina SMP. Therefore, this criterion has been satisfied.

PART 7 – STAFF RECOMMENDATION

Staff recommends the Hearing Examiner **approve** the Non-Administrative Substantial Development Permit (file no. P-24-005) as the project has demonstrated consistency with the Medina Municipal Code, Medina Shoreline Master Program, the State Shoreline Management Act

of 1971, and the State Shoreline Management Permit and Enforcement Procedures. Staff recommends the following **conditions** be included:

1. Mitigation shall be provided consistent with Exhibit 12, including the monitoring plan. The monitoring report required to be provided to the U.S. Army Corps of Engineers (Corps) shall also be provided to the City in written form simultaneous to the applicant's submittal to the Corps.
2. The development must comply with and be consistent with the Medina Shoreline Master Program (chapters 16.60 through 16.67 MMC, in combination with Sub-Element 2.1 of the Medina Comprehensive Plan per MMC 16.60.010), chapter 173-27 WAC (Shoreline Management Permit and Enforcement Procedures), and chapter 90.58 RCW (Shoreline Management Act).
3. All other zoning and development regulations applicable to the project shall be followed and confirmed during the building permit review.

Date

Thomas Carter, Associate Planner, LDC, Inc.
on behalf of the City of Medina