



MEDINA, WASHINGTON

HEARING EXAMINER

A Remote Public Hearing

Wednesday, June 26, 2024 – 2:00 PM

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/88324991299?pwd=rd4Hu7saMKZi1LekhHD4xYZEz30DFI.1>

Meeting ID: 883 2499 1299

Passcode: 713335

One tap mobile

+12532158782,,88324991299#,,,,*713335# US (Tacoma)

+12532050468,,88324991299#,,,,*713335# US

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-23-062 Non-Administrative Substantial Development Permit

Applicant or

Agent: Zion Napier, Agent, for Anu Jain, property owner

Proposal: Non-Administrative Substantial Development Permit to install a 338 square foot moorage cover. The accessory structure will be placed over the existing dock on the project site. The project is categorically exempt from SEPA review, as per WAC 197-11-800(2)(e).

Location: 8315 Overlake Dr. W., Medina, WA 98039, Parcel # 2018700240

Legal Info: DE VRIES LK WASHINGTON TRS UNREC LOT B TGW SH LDS ADJ TGW
NWLY 75 FT LOT C TGW SH LDS ADJ

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

PART 1 – GENERAL INFORMATION

ZONING: R-30, Single Family Residential

COMPREHENSIVE PLAN DESIGNATION: Residential

SHORELINE ENVIRONMENT DESIGNATION: Shoreline Residential

CRITICAL AREAS: Shoreline, as regulated below

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

EXHIBITS:

1. Staff Report
2. Declaration of Agency, received November 17, 2023
3. Statutory Warranty Deed, received November 17, 2023
4. Ecological No Net Loss Assessment Report, received November 17, 2023
5. Legal Notices
 - a. Notice of Incomplete Application, dated December 20, 2023
 - b. Notice of Complete Application, dated January 24, 2024
 - c. Notice of Application, dated February 1, 2024
 - d. Notice of Hearing, dated February 6, 2024
 - e. Notice of Hearing Rescheduled, dated February 16, 2024
 - f. Notice of Hearing Cancellation, dated March 1, 2024
 - g. Notice of Hearing, dated June 26, 2024
6. Non-Administrative Substantial Development Application, received November 17, 2023
7. Comment Response Letter received November 17, 2023
8. Site Plan received January 8, 2024
9. Mailing Labels received January 8, 2024
10. Technical Memorandum, Grette Associates, dated March 22, 2024
11. Review Comment Letter, dated March 29, 2024
12. Comment Response Letter, received April 15, 2024
13. Directors Authorization dated, May 7, 2024
14. Revised Ecological No Net Loss Assessment Report, received May 7, 2024
15. Email from Grette Associates, received May 16, 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-30 District	Residential
South	R-30 District	Residential
East	R-16 District	Residential
West	Lake Washington	Residential

ACCESS: Ingress and egress are from Overlake Drive West.

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-G8: Manage shoreline modification to avoid, minimize, or mitigate significant adverse impacts.

SM-G9: Minimize impacts to the natural environment and neighboring uses from new or renovated piers and docks and their associated components, such as boatlifts and canopies.

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

SM-P7.2: Where feasible, boating facilities should include measures that enhance degraded and/or scarce shoreline features.

SM-P7.3: Boating facilities should not unduly obstruct navigable waters and should avoid causing adverse effects to recreational opportunities such as fishing, pleasure boating, swimming, beach walking, picnicking and shoreline viewing.

SM-P7.4: Preference should be given to boating facilities that minimize the amount of shoreline modification, in-water structure, and overwater coverage.

SM-P7.6: Boating facilities should be located, designed, constructed and operated so that other appropriate water-dependent uses are not adversely affected and to avoid adverse proximity impacts such as noise, light and glare; aesthetic impacts to adjacent land uses; and impacts to public visual access to the shoreline.

SM-P8.4: Structures should be located and designed to avoid the need for future shoreline stabilization where feasible.

SM-P9.3: Moorage should be spaced and oriented in a manner that minimizes hazards and obstructions to public navigation rights and corollary rights thereto such as, but not limited to, fishing, swimming, and pleasure boating.

SM-P9.6: 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.

SM-P9.5: Establish development regulations that encourage property owners to make renovations to their existing piers and docks outside of normal maintenance and repairs that improve the environmental friendliness of their structure.

SM-P13.4: The City should encourage retention and development of the shoreline for joint use private recreational activities, such as moorage, decks, beach clubs, etc.

PART 4 – AGENCY REVIEW/PUBLIC COMMENT

NOTICES (Exhibit 5):

Application received:	November 17, 2023
Resubmittal received:	January 8, 2024
Determination of Completeness:	January 24, 2024
Notice of Application:	February 1, 2024
Notice of Hearing:	February 06, 2024
Notice of Hearing Rescheduled:	February 16, 2024
Notice of Hearing Cancelled:	March 1, 2024
Notice of Hearing:	June 26, 2024

The application was received on November 17, 2023, and was determined Incomplete on December 20, 2023, pursuant to MMC 16.80.100. The applicant resubmitted their application items on January 9, 2024, and was determined complete on January 24, 2024, pursuant to MMC 16.80.100. A Notice of Application was issued on February 1, 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 February 6, 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 issued a Notice of Hearing Reschedule on February 16, 2024, for a new hearing date on March 5, 2024. The city then issued a Notice of Hearing Cancelled on March 1, 2024. A new Notice of Hearing was issued Month, Date, Year, 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. Anuradha Jain is the owner and taxpayer of record of the property identified as 8315 Overlake Dr. W, tax parcel no. 2018700240, according to the Statutory Warranty Deed (Exhibit 3). The property owner has an agent, Zion Napier, acting on behalf of the owner (Exhibit 2).
2. The property is zoned R-30 (Single Family Residence) and is approximately 57,150 square feet (1.31 acres) in size. The lot is generally rectangularly shaped with maximum overall dimensions of approximately 375.1 feet at its greatest length and approximately 194.4 feet at its greatest width. The lot is developed with a single-family dwelling, a dock, and related site improvements, including driveway and landscaping.
3. The applicant applied for a non-administrative substantial development permit to install a 338 square foot moorage cover structure on the existing dock located along the western portion of the property, which is within 200-feet of the ordinary high-water mark of Lake Washington.

ENVIRONMENTAL (SEPA) REVIEW:

4. Pursuant to WAC 197-11-800(2)(e) the application was found to be exempt from SEPA review.

ANALYSIS OF THE NON-ADMINISTRATIVE SUBSTANTIAL DEVELOPMENT PERMIT:

5. The Medina Municipal Code (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 Jain project proposal for a covered moorage installation over an existing deck meets these criteria, and the proposed project does not qualify for an exemption as set forth in MMC 16.70.040. The project proposal also does not qualify for an administrative substantial development permit as set forth in MMC 16.71.060. 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 (covered moorage) is permitted in the site’s Shoreline Residential environment designation.
7. 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 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.

The Ecological No Net Loss Assessment Report was reviewed by the City's third-party biological consultant, Grette Associates (Grette), for its recommendation on whether the project aligned with provisions of the MMC governing no net loss of ecological function. Grette's review of the applicant's No Net Loss Assessment Report found that the applicant's proposed mitigation was noncompliant with MMC 16.66.020 (Exhibit 11). The applicant's No Net Loss Assessment Report did not include a summary of any post-project monitoring to ensure survival of native species proposed to be planted as part of the proposal's compensatory mitigation; thus, assurance that there would be no net loss of ecological function as a result of the proposed project activity was not proposed, and Grette recommended that the applicant's report be revised accordingly.

The applicant submitted a revised Ecological No Net Loss Assessment Report (Exhibit 12) that included specification of mitigation and monitoring for the site. This revised report was reviewed by Grette to ensure compliance with Chapter 16.66 of the MMC. Grette found that the revised report adequately addressed its previous findings and aligned with germane provisions of the MMC. Grette also recommended that staff recommend a condition of approval to the Hearing Examiner related to this matter (Exhibit 13). Staff affords deference to the biological recommendations of Grette, and therefore has drafted recommended Condition No. 1 for the Hearing Examiner to consider including in the permit decision. The applicant has demonstrated a reasonable effort to analyze environmental impacts from its proposed covered moorage and has included measures to mitigate impacts that could otherwise occur to shoreline ecological functions.

8. MMC 16.65.070(B) establishes the dimensional and design standards for covered moorage. The maximum height for a covered moorage above plane of the ordinary high water line is 16 feet; the minimum height of a covered moorage above the plane of the ordinary high water line is 8 feet. The number of covered moorage structures is limited to one structure per pier or dock. The covered moorage building envelope shall be located within the building envelope prescribed in MMC 16.65.070(C). The maximum overwater coverage of the moorage is limited to 500 square feet, and the minimum side property line setback is 12 feet. The roof material of the covered moorage shall be made of translucent materials.

The applicant proposes a covered moorage structure that is 9' in height above the plane of the ordinary high-water line (see Sheet 6.0 of Exhibit 8). The applicant is only requesting to develop one covered moorage structure appurtenant to its existing dock, which is located within the building envelope prescribed in MMC 16.65.070(C). The footprint of the covered moorage is 338 square feet, and the covered moorage is proposed to be located outside of the 12-foot side yard setbacks (see Sheet 3.0 of Exhibit 8). The applicant is proposing to install a translucent moorage cover manufactured by Crystallite, Inc. (see page 1 of Exhibit 4). Therefore, the applicant proposes a covered moorage structure that is consistent with the dimensional and design standards set forth in MMC 16.65.070(B).

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 decide on this application.
2. Notice for this public hearing was originally provided for the project's first public meeting. Notice was posted on the property and mailed to surrounding property owners within 300

feet, published in the Seattle Times newspaper on February 6, 2024, more than 15 days prior to the date of the hearing (Exhibit 5).

3. A new notice for this public hearing has also been provided. Notice was posted on the property and mailed to surrounding property owners within 300 feet, published in the Seattle Times newspaper on June 8, 2024, more than 15 days prior to the date of the hearing (Exhibit 5) as required by applicable law.
4. 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) sets forth that “all uses and development proposals, 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”. Because the Medina SMP has been adopted to express the Act’s policies and regulations, an 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 6.4.c 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 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 6.4.c 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 proposed covered moorage structure 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-23-062) 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
06/18/2024

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