



MEDINA, WASHINGTON

HEARING EXAMINER

A Remote Public Hearing

Wednesday, September 11, 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 ikesler@medina-wa.gov. Written comments are given the same weight as verbal public testimony.

Join Zoom Meeting

<https://medina-wa.zoom.us/j/83331322725?pwd=VL1ZJ9dxcWkMdN1AarlhlhrOjdikTH.1>

Meeting ID: 833 3132 2725

Passcode: 809170

One tap mobile

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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-24-009 Non-Administrative Substantial Development Permit

Applicant or

Agent: Lisa Lu, Agent, for Heideh Eftehari & Patrick Reilly, property owners

Proposal: Non-Administrative Substantial Development Permit to rebuild the existing house as a non-substantial destruction remodel, with a proposed patio. The project would alter functions on each floor and raise ceiling heights, while preserving the various existing locations of exterior walls and depths of roof overhangs, especially in

areas benefiting from the nonconforming status. A portion of the existing house is located within the 50-foot shoreline setback due, this portion has legal nonconforming status. The addition will align with the existing nonconformity and will not expand the nonconformity. The construction will comply with the current Building Code.

Location: 3230 78th Place NE, Medina, WA 98039, Parcel # 7397300151

Legal Info: ROLFES EVERGREEN POINT TRS POR TR 15 DAF: BEG AT MOST SLY COR SD TR 15 TH N 75-24-27 E ALG SELY LN THOF 291.45 FT TO TPOB TH N 14-35-33 W 16 FT TH N 75-24-27 E 15.88 FT TH N 42-37-25 E 104.01 FT TH N 70-24-27 E 80 FT TH S 19-35-33 E 8 FT TH N 70-24-27 E 80 FT M/L TO NELY LN SD TR TH SLY ALG SD NELY LN TO NXN WITH SELY LN SD TR 15 TH SW 280 FT M/L ALG SD SELY LN TO TPOB TGW 2ND CL TIDELANDS ADJ;

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: See #4 under Part 5, *Staff Analysis*, below.

EXHIBITS:

1. Staff Report
2. Non-Administrative Substantial Development Application, received February 22, 2024
3. Owner's Declaration, received February 22, 2024
4. Proof of Ownership-Deed, received February 22, 2024
5. Site Plan & Structural Cal Plans, received July 31, 2024
6. Non-Substantial Destruct Threshold Cals & Photos, received February 22, 2024
7. Tree Plan, received February 22, 2024
8. Shoreline Planting Plan, received January 25, 2024
9. Mailing Labels, received February 22, 2024
10. Imaps Property Detail
11. Legal Notices
12. Review Comment Letters/ Comment Response Letters

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 District	Residential

ACCESS: Ingress and egress are from 78th Place NE.

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.

PART 4 – AGENCY REVIEW/PUBLIC COMMENT

NOTICES (Exhibit 11):

Application received:	February 22, 2024
Determination of Completeness:	March 21, 2024
Notice of Application:	March 28, 2024
Notice of Hearing:	August 23, 2024

The application was received on February 22, 2024, and was determined complete on March 21, 2024, pursuant to MMC 16.80.100. A Notice of Application was issued on March 28, 2024, with a 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 August 23, 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 notice locations (City Hall, Medina Post Office, the Posting Board in Medina Park and the 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. Heideh Eftehari is the owner and taxpayer of record of the property identified as 3230 78th Place NE, tax parcel no. 7397300151, according to the Statutory Warranty Deed (Exhibit 4). The property owner has an agent, Lisa Lu, acting on behalf of the owner (Exhibit 3).
2. The property is zoned R-20 (Single-Family Residential) and is approximately 14,229 square feet (0.32 acres) in size. The lot is generally rectangularly shaped with maximum overall dimensions of approximately 250 feet at its greatest length and approximately 81 feet at its greatest width. The lot is developed with a single-family dwelling, a dock, and related site improvements, including a driveway and landscaping.
3. The applicant applied for a Non-administrative Substantial Development permit to remodel a single-family home as a non-substantial destruction remodel. The proposed changes involve altering the interior layout on each floor, raising ceiling heights, closing the exterior wall of the main floor on the east end of the existing house, expanding the entry on the north, extending the mechanical room on the south, rebuilding the existing north deck in the same location and replacement of an existing deck with a new patio. The existing house is partially located within the 50-shoreline setback and is of legal nonconforming status. The remodel will not further increase the nonconformity of the existing structure.

ENVIRONMENTAL (SEPA) REVIEW:

4. The proposal is exempt from environmental (SEPA) review pursuant to WAC 197-11-800(2)(f), Other Minor New Construction, Additions or modifications to or replacement of any building or facility exempted by subsections (1) and (2) of this section when such addition, modification or replacement will not change the character of the building or facility in a way that would remove it from an exempt class.

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 Eftehari project proposal for a remodel of the existing single-family home 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 (detached single-family dwelling) is permitted in the site's Shoreline Residential environmental designation.
7. The proposal is for a remodel of the existing single-family house on site and does not propose to expand the existing roof line footprint of the structure. The proposal will also include altering the configuration of the existing patios on site, which will result in a net decrease in patio area. MMC 16.63.030(C)(7) does allow for an uncovered patio within the shoreline setback as long as adverse impacts to the shoreline ecological functions are avoided, or if the impacts are minimized and mitigated by using low-impact BMPs. MMC 16.63.030(C)(7)(b) states that patios within the shoreline setback are allowed provided that they provide native vegetation at 1:1 ratio of the net increase of new surface area of the patio located less than 50 feet from the ordinary high-water mark. The project site currently has an existing patio area of 333 sq ft and as far as we can tell, no mitigation has been provided for this patio area. The proposed patio reconfiguration will reduce the patio area in the shoreline setback to 332 sq ft. This would result in a net **decrease** in patio area. Therefore, a mitigation planting plan would not be applicable to this proposed patio reconfiguration.
8. MMC 16.63.030(C)(7) also requires that the patio area does not exceed 500 sq ft inside the setback area for all patios, decks and similar improvements. The existing patio is 333 sq ft. The reconfiguration of the patio would reduce the patio area to 332 sq ft. The proposed patio complies with this portion of the code that requires that patios and similar structures do not exceed 500 sq ft.
9. MMC 16.63.030(C)(7)(d) requires that the proposed material must allow water to easily pass through to the ground. The applicant is proposing to replace the existing patio area with pervious pavers, drain rock, and permeable geotextile fabric. This would allow water to permeate through to the ground, therefore complying with this section of the Code.
10. MMC 16.63.030(C)(7)(a, b, and e) are not applicable to this proposed project. The proposed patio is not located within a string line setback area, does not exceed thirty inches (30") in height above the existing grade, and is located more than 30 feet from the ordinary high-water mark.
11. MMC 16.63.030 designates a minimum 50-foot shoreline setback from Lake Washington for the subject property. According to King County IMAPS, the existing structure was built in 1976 (Exhibit 10). The subject property is located next to Lake Washington. The eastern portion of the existing single-family residences lies within the required 50-foot setback from Lake Washington established in the Medina Municipal Code established in 2021. Due to this, the existing single-family home meets the definition of a legal nonconforming structure pursuant to MMC 16.66.090(A).
12. MMC 16.66.090(E)(3) states "*A nonconforming structure may be enlarged, extended, repaired, remodeled, or structurally altered provided the work does not increase the nonconformity....*" The applicant is proposing a remodeling of the existing single-family home. This remodel will include the removal of exterior walls, rebuilding exterior walls,

increasing ceiling height, altering the interior layout of each floor, closing exterior walls on the main floor, expanding the entry, extending a mechanical room, rebuilding the existing deck and expanding the storage space of the existing garage. All these improvements will take place within the existing roofline of the single-family residence and will not increase the nonconformity into the shoreline setback, existing setbacks, and existing height of the structure. Therefore, the applicant's proposed remodel of a legal nonconforming structure is consistent with the nonconforming standards set forth in MMC 16.63.030(E).

13. MMC 16.60.228 defines "substantial destruction" as: "Substantial destruction as prescribed in MMC 16.66.090 means to remove more than 60 percent of the existing exterior wall framing of a building or structure, as measured by the horizontal linear length of all exterior walls. Any partial removal of existing framing shall count towards the measurement of horizontal linear length the same as if the entire framing within that horizontal linear length was removed, except partial removal shall not include replacement of windows or doors when no beams or struts are removed." The scope of the proposed project in this application does not exceed 60 percent (approximately 27 percent) of the existing exterior wall framing of a building or structure, as measured by the horizontal linear length of all exterior walls, including any partial removal of existing framing. Therefore, the proposed project does not result in any loss of legal non-conforming status under 16.66.090(E)(6).

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 purpose of this Non-Administrative Substantial Development Permit is to rebuild the existing house as a non-substantial destruction remodel, with a proposed patio, altered functions on each floor and raised ceiling heights, while preserving the various existing locations of exterior walls and depths of roof overhangs, especially in areas benefiting from the nonconforming status. The portion of the existing house that is within the 50-foot shoreline setback has legal nonconforming status. The addition will align with the existing nonconformity and will not expand the non-conformity. The construction will comply with the current Building Code.
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 and published in the Seattle Times newspaper on August 23, 2024, more than 15 days prior to the date of the hearing (Exhibit 11).
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 that is consistent with the policies and provisions of the Washington Shoreline Management Act ("the Act," RCW 90.58). MMC 16.60.060(A) states 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, 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 that 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 that 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's Shoreline Master Program (SMP).*

CONCLUSION: As has been demonstrated in the analysis provided in Part 5 of this staff report, the applicant's proposal for the remodel of an existing single-family home and reconfiguration of patio areas 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-24-009) 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. 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).
2. The “substantial destruction” performed on the house as part of this proposed project shall not exceed the limits set forth in MMC 16.60.228.
3. All other zoning and development regulations applicable to the project shall be followed and confirmed during the building permit review.

Date: August 28th, 2024



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