Pacific County
HEARINGS EXAMINER

March 8th, 2024

Aaron & Chandra Poledna
3714 SW Monroe St.
Seattle, WA 98631

A+ Design & Consulting LLC
P.O. Box 751
Long Beach, WA 98631

RE: CARL Variance, Application No. P2300846 - APPROVED
Tax Parcel ID No.: 11110923006

Dear Property Owner/Applicant:

The Pacific County Hearings Examiner acted at the February 28th, 2024 hearing to approve the above referenced application. Enclosed you will find a copy of the decision that includes the Findings of Fact and Conclusions of Law. The complete case file is available for review Monday through Thursday, 7:30 a.m. - 12:00 p.m. / 1:00 p.m. – 3:00 p.m., at our Long Beach office. Please contact me to set up an appointment to ensure that we are able to assist you.

The Hearings Examiner decision is final and conclusive unless an appeal is filed in accordance with RCW 36.70C. If no appeal is filed within the 21-day appeal period, the project is allowed to proceed once all other permits have been obtained.

The enclosed invoices are a result of the time spent for the hearing as determined by the Hearing Examiner. If you have permits pending as a result of this hearing, they cannot be issued until the balance is paid. Any outstanding balance will be forwarded to collections if not paid within 30 days from the date listed above.

If you have any questions, please do not hesitate to contact me at 360-642-9382 or via email zjohnson@co.pacific.wa.us.

Sincerely,

Zane Johnson
Planner
Enclosure

c: Parties of Record
Parcel File

March 7, 2024

Pacific County Hearing Examiner's Decision

Permit application: P2300846

Subject property: Parcel # 11110923006, 21125 Pacific Way, Long Beach.

Applicant: A+ Design and Consulting LLC on behalf of Aaron and Chandra Poledna, owners

Hearing: February 28, 2024, 7013 Sandridge Road, Long Beach, Washington, and over the internet via a Zoom meeting.

Witnesses:

Zane Johnson, Senior Planner, Pacific County Department of Community Development (DCD)

Leonard Taylor and Aaron and Chandra Poledna were present but had no testimony.

Documentary Evidence:

DCD staff report and application packet, including application and related documents.

Summary of Application and Testimony

This is an application for a variance to allow construction of a driveway and associated turn-outs totaling 3,270-square feet in a Category III wetland buffer.

During the hearing, Zane Johnson summarized the request and restated his recommendation. He offered his staff report and its supporting documentation into evidence.

Findings of Fact

Leonard Taylor, A+ Design and Consulting has applied on behalf of Aaron and Chandra Poledna to construct a driveway with turn-outs impacting approximately 3,270 square feet of a Category III wetland buffer. This construction would be on an undeveloped 2.7-acre parcel # 11110923006, 21125 Pacific Way in Long Beach. The parcel is bounded on the west by dunes leading to the Pacific Ocean. To the east of

the parcel is Pacific Way, one of two major north-south arterial roads on the Long Beach Peninsula. The two parcels to the immediate north are undeveloped, as is the land on the other side of the highway. Otherwise the neighborhood has single-family housing. The Polednas seek to build their own single-family residence on this plat. The land to the west side of their parcel is unencumbered by wetlands or their associated buffers, but the eastern border of their property is encumbered by the Category III wetland buffer referenced above. To access the buildable area on their property they must traverse the wetland buffer. They propose to build a 12' wide driveway though the County standards require a 14' wide driveway.

Mr. Taylor's wetland analysis report is incorporated by reference into this decision.

The owners propose to mitigate the impact on the wetland buffer by purchasing mitigation credits at the Long Beach Mitigation Bank. They propose a 1:1.1 x 50 percent mitigation ratio for a total purchase of 1798.5 square feet of wetland bank purchase.

Conclusions of Law

I have jurisdiction to hear this proposal. The CARL Ordinance 193 §3.I.1 states, "The Administrator shall process variance requests according to a Type II procedure delineated in Ordinance 177. The burden of proof shall be on the person requesting the variance to bring forth evidence in support of the variance." Section 3.I.2 sets the criteria. "The Administrator shall grant a variance if the person requesting the variance demonstrates that the requested variance conforms to all of the criteria set forth below:"

a. (S)pecial conditions and circumstances exist that are peculiar to the land;

The only developable area on this property can be accessed only via a wetland buffer. It would require impacting this wetland buffer for this property to be developed. No development is possible on parcel #11110923006 without a variance.

b. (L)iteral interpretation of the provisions of this Ordinance would deprive the person seeking the variance of rights commonly enjoyed by other properties conforming to the terms of this Ordinance;

Literal interpretation of the provisions of Ordinance 193, without a variance, would deny development on this property any greater than that foreseen in Section 3.J, reasonable use, however to allow for such reasonable use would necessarily impact the same amount of protected wetland buffer. There was no evidence of similarly situated people or property from which to discern whether this would be a

deprivation. If this variance were denied but another similar application was granted, it would be a deprivation of right commonly enjoyed by others.

> c. (T)he special conditions and circumstances do not result from the actions of the person seeking the variance;

The special conditions and circumstances are inherent in the subject property and do not result from the actions of the applicants, unless seeking to build in a wetland buffer is the action that creates the special circumstance.

> d. (T)he granting of the variance requested will not confer on the person seeking the variance any special privilege that is denied by this Ordinance to other lands, structures, or buildings under similar circumstances;

The answer to this criterion is similar to that of "b" above. There have been no other properties or requested variances offered into evidence from which to compare. If this application were granted, it might create a new 'floor' for similar requests but that is inchoate. There is no evidence that any similarly situated applicant was previously denied.

> e. (T)he variance requested is the minimum necessary to afford relief;

The applicant and owners have reduced the width of the driveway from the county standard of 14' to 12'. There must be turn-outs in the driveway. Without the driveway, there can be no further development.

This request is the minimum necessary to afford relief.

> f. (T)o afford relief the requested variance will not create significant impacts to critical areas and resource lands and will not be materially detrimental to the public welfare or contrary to the public interest.

There was no public interest demonstrated in this request. The State of Washington has determined that mitigation banks are an appropriate method of mitigating impacts to such critical areas as this wetland buffer. The proposed mitigation package sufficiently addresses any impacts to critical areas. Granting this variance would not create a precedent that would in turn cause further cumulative impacts to critical areas.

There are no zoning, shoreline, comprehensive plan, flood plain, or SEPA issues limiting this application.

However, frequently County building standards are created with an eye to fire suppression. For example, the building height limit in the county relates to the inability of fire district rescue and suppression trucks to access any higher. This

might be the case with the County standard of having driveways 14' wide, to allow large fire trucks free access to potential fires. If this is the case in this situation, that the local fire district requires a 14' wide driveway, this may impact the owners' ability to secure insurance. This concern is outside the jurisdiction of this hearing.

The applicants have met their burden of proof set by Ordinance 193.

All conclusions of law that are in fact conclusions of fact shall be deemed as such. All conclusions of fact that are conclusions of law shall be deemed as such.

Conclusion

The application is approved with the conditions that:

1. The development complies with all other county and state regulations;

2. The applicants receive all necessary permits prior to construction. As noted in the DCD report on this application, the applicants must prepare and submit an Abbreviated Alteration and Drainage Plan sufficient to meet County standards;

3. Proof of credit purchase from the Long Beach Mitigation Bank will need to be recorded with the Pacific County Auditor's Office and a copy of that recorded document must be submitted to Pacific County Department of Community Development prior to the issuance of permits.

4. No construction shall begin unless and until the applicants have all necessary permits.

5. Best Management Practices (BMPs) are required to be in place during the construction until the site is stabilized to prevent debris from entering the wetland. During construction, silt fencing will be required to be temporarily installed until native vegetation is established along the borders of the driveway.

The permit shall not begin and is not authorized until 21 days from the date of filing as defined in RCW 90.58.140(6) and WAC 173-24-130, as amended, or until all review proceedings initiated within 21 days from the date of such filings have been terminated, except as provided in RCW 900.58.140(5)(c) and (d).

Please note that any appeal of this decision shall comply with the requirements of RCW 36.70C. The deadline for filing any appeal is both swift and definite. If you have any questions concerning this deadline or the appeals process, please consult an attorney.

Signed this 7th day of March, 2024.

Eric Weston, Hearings Examiner