Pacific County
HEARINGS EXAMINER

March 22nd, 2024

Catherine Freshley & Tom Leineweber
4065 NE 16th Ave.
Portland, OR 97212

RE: ODRB Major Review, Application No. P2400099 - APPROVED
Tax Parcel ID No.: 12111022075

Dear Property Owner/Applicant:

The Pacific County Hearings Examiner acted at the March 13th, 2024 hearing to approve the above referenced application. Enclosed you 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 invoice is a result of 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 360-875-9356 or via email zjohnson@co.pacific.wa.us.

Sincerely,

Zane Johnson
Planner
Enclosure

cc: Parties of Record
Parcel File

March 21, 2024

Pacific County Hearing Examiner's Decision

Permit application: P2400099

Subject property: Parcel # 12111022075, 33616 Sandridge Road, Oysterville

Applicants: Catherine Freshley and Tom Leineweber, owners

Hearing: March 13, 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)

Chris Freshley, neighbor

Gloria Freshley, neighbor

Physical Evidence

DCD application packet, including supplementary documents such as the application and elevation views.

Email from Paul and Kathleen Staub, neighbors, in support of the application, March 11, 2024

Email from Martie Kilmer, neighbor, in support of the application, March 12, 2024

Email from Gloria Freshley, neighbor, in support of the application, March 12, 2024

Summary of Application and Testimony

The applicants wish to move existing structures from one part of the Oysterville Historic District to another to create a single-family residence for themselves. The house is currently located at 3505 Clark Street and was built subject to the Oysterville Design Review Board in 1993. The applicants propose to move this as three structures – the main building, the bedroom building, and a garage – and to site them separately. They are currently joined with a breezeway. The new design is subject to Pacific County's Zoning Ordinance and Oysterville Design Review.

Zane Johnson testified, repeating the parts of the application that were different from the CARL variance companion case, repeating his conclusions, and adopted the report and its accompanying documents into the record.

Chris Freshley testified that he owned the adjacent property to the south and that he wanted to be on the record as being supportive of the application. He said that he was a landscape architect and he appreciated that the proposal split the structures and aligned them for a good southerly face.

Gloria Freshley asked whether I'd received her emails in support and I verified I had.

This Hearings Examiner pointed out that the Oysterville Design Review standards had changed slightly from when the request vested, and because the new standard was less restrictive, they had their choice of new or old law. They decided that the difference was mostly immaterial and chose the old law.

Findings of Fact

Catherine Freshley and Tom Leineweber have applied to move parts of an existing single-family residence from 3505 Clark Street, at the north end of Oysterville, approximately half a mile to the south-east end of Oysterville at 33616 Sandridge Road, Oysterville, Parcel #12111022075. This house was built with Oysterville Design Review Board approval in 1993. The existing house has three constituent building structures: a living area with kitchen and utility areas; a bedroom structure; and a detached garage. Currently the house has a carport and a breezeway with deck linking the main house with the bedroom. The applicants intend to move the three structures without the carport and breezeway to make the new design more appropriate for the design guidelines.

The final building site has trees blocking views from Sandridge Road to the west and trees and structures blocking views from Territorial Road to the east. To the north is a stand of trees with an established footpath through the building site. The only significantview to the house is from the south. The applicants propose to align the garage, main house, and bedroom structures along an east/west axis facing the south, towards Chris and Gloria Freshley's property.

There are seven trees standing in the way of the move. The applicants propose to remove these trees and replant twice as many in mitigation.

Conclusions of Law

When Ms. Freshley and Mr. Lieneweber applied for the permit, Ordinance 184 §20 applied and they would have vested in the old standards. At the time of the hearing, Ordinance 184 had been replaced by Ordinance 194. Ordinance 194 is less restrictive than Ordinance 184 in Oysterville Design Review standards, particularly concerning building materials. As a general rule of property law, when the new standard is less rigorous than the old, the applicant has a choice of law so as not to impinge on their property rights. The applicants chose the old law.

The proposed construction project is in the Oysterville Historic District. Ordinance 184 §20 applies. Section 20(B) states, "The Oysterville design review guidelines shall be utilized as a regulatory document to determine the suitability of development within the authority of this Section." Section 20(F) requires a public hearing for this major construction. Section 20(G) states, "The Hearings Examiner, in considering the appropriateness of any development activity, shall base all decisions on this Section and the design review guidelines. The Hearings Examiner shall consider the historical and architectural value and significance, architectural style, general design, arrangement, texture, material, and color of the structure in question or its appurtenant fixtures including signs, the relationship of such features to similar features of other buildings with Oysterville, and the position of such buildings."

The Oysterville Design Guidelines (provided in the DCD review packet) state that General and New Guidelines apply for "New primary structure" and "Exterior alteration of a 'non-historic' building," and that the general guidelines and "other" apply for the site work. (Grid, p. iii) The proposed construction is a mix of both new and old "non-historic" building. The original "non-historic" building has already passed muster with the Design Review Board.

General standard #1 requires that established tree stands are to be respected. The applicants plan to remove seven trees in order to move the buildings. They propose to replace the trees with 14 native trees. The record does not reflect the age, location, or variety of trees to be removed, nor the age or location of the trees to be planted. However, given the thoroughness of the rest of the project, it is likely that the new trees will respect this design standard.

General standard #2 requires that the grassy character of the shoreline be respected and "Where new construction is permitted adjacent to wetlands, building should be conceived such that they minimize the alterations to the character of the transitions to wetlands." This project is not at the shoreline. The proposed design minimizes the impact to the wetland buffer and the existing lawn protects the transition to the seasonal wetland.

General standard #3 requires that the project protects views to significant historic and natural features. The proposed construction will apparently not block any view of any historic structure or natural feature. The moved buildings will be mostly hidden by existing stands of trees or other existing development.

General standard #4 requires that the new construction respect historic residential settlement patterns. "Preserve the historic street patterns, including preservation of lanes." This project would change no historic street pattern. The existing lane has already been permitted and is not under this review. "Protect neighborhood boundaries by recognizing their difference in character in the guidelines for individual neighborhoods." The existing house to be moved was already permitted,

so the constituent elements are not under review here. As a whole, a complex of buildings, the proposal respects the character of the Core Area as much as the complex of buildings before the move.

General standard #5 requires that the buildings be oriented similarly to that found historically. The proposed structures are oriented similarly to the other historic residence of Oysterville, with the ridgelines of the new construction either parallel with or perpendicular to the street.

General standard #6 requires that building setbacks be similar to historic patterns. This standard requires buildings to be set relatively close to the street except in wooded areas A and D. This construction is in area C. There is no historic pattern of siting buildings along Sandridge Road, thus the existing stand of mature trees. The plan respects County setback requirements and the wetland encumbrances.

New Construction standard #1 requires that the building heights be similar to those of the other historic buildings, generally 18 to 27 feet to the top of the roof for a residence. The maximum building height of the plan is 22' 7" and so the design fulfills this standard.

New Construction standard #2 requires that the building widths be similar to other historic residences, with a typical width of the primary façade to be 30 to 45 feet and not to exceed 45. The Design Guidelines have no precise building width standard for accessory buildings. The façade of the primary building is 20' 6". I was unable to find the width of the accessory buildings, but the bedroom unit appears to have about the same south width as the primary building.

New Construction standard #3 requires that new buildings be distinguishable stylistically from historic structures to protect their integrity. This is the most troublesome of the design standards. Any new construction needs to mimic historic designs so as to conform to the general architectural aesthetic of this historic district, but not so close of an imitation that it could be confused for an actual historic home. Close, but not too close.

The proposal takes an existing set of structures, moves them to a new location, and slightly alters the original design by removing a carport and a breezeway. The ODRB permitted the original buildings. The new construction will be even more consistent with historic structure placement than the old. This fulfills the requirement of similarity to historic Oysterville buildings while being stylistically different enough that no one would confuse it for a historic building.

New Construction standard #4 requires that building forms should be similar to those seen historically in residential structures. The standard explains, "This was typically a rectangular primary form, with a symmetrical gable roof; subordinate rectangular forms were often attached, creating a moderately complex form overall. Shapes typical of the area should be incorporated into new designs. Subordinate

additions were often found historically and are encouraged on new construction." All of the constituent elements to the proposed design are roughly rectangular. The separation of the building units is better suited to the 'subordinate addition' criterion than the original design with breezeway and carport. This fulfills the standard.

New Construction standard #5 requires that the textures of exterior building materials be similar to historic materials. This project will use a cedar siding similar to historic uses nearby.

New Construction standard #6 forbids synthetic siding materials. The proposal lacks synthetic siding materials.

New Construction standard #7 requires the ratio of window to wall to be similar to historic residence primary façades. The proposed design has a window to wall ratio similar to its historic neighbors.

New Construction standard #8 requires that porches "shall" be used to define primary entrances and that the porch should be oriented to the street. There is no porch at the primary entrance and thus the design fails standard #8, however this design was already approved in 1993.

New Construction standard #9 requires that

> Roofs shall be similar in scale to those of historic residences.
> The primary ridge line is encouraged to be parallel to the street.
> The range of historic ridge lines is from 30 to 45 feet long.
> The primary ridge line of new buildings shall not exceed 45 feet without a change of height.

While the primary ridge line is parallel to the street, the façade is not parallel. The proposal is technically sufficient. The total length of the main building is over 55 feet, however the height changes meeting the standard.

New Construction standard #10 requires that roofs be similar in form to historic residences in that they should be gabled with a roof pitch similar to the 1:1 typical to historic buildings. The proposed new construction has gabled roofs with the required 6/12 pitch.

New Construction standard #11 requires smooth-sawn wood shingles on roofs in area C. The proposed construction will use smooth-sawn cedar shingles.

New Construction standard #12 requires that doors and windows be similar in scale and proportion to historic residences in Oysterville. It requires that door, window frames, and sashes be wood in area C. It also requires that windows have divisions similar to historic models. This part of the design structure was already been

approved in 1993. The doors and windows are similar in scale and proportion. The differences between this contemporary design and historic proportion are part of the design to distinguish this construction from a historic building. All windows are wood.

New Construction standard #13 requires that chimneys be subordinate to the roof form, and that metal pipe stacks may be used if located on the rear roof. The Design Guidelines do not elaborate on what "subordinate to the roof form" means. The proposal has a metal pipe stack on the west side of the main house to make it more unobtrusive. It is subordinate to the roof form.

New Construction standard #14 forbids ornamentation unless it is similar to that found on other historic buildings. The proposal has no ornamental trim.

New Construction standard #15 encourages simple color schemes with one base color for the building and one or two accent colors, with all to be similar to those used historically. The proposed design will be use natural cedar with white trim, similar to historic design.

New Construction standard #16 states:

> Secondary structures are encouraged.
> They should be used to reduce the mass of the primary building.
> Secondary structures should be set back from the primary elevation of the main structure.
> They may be connected by walkways to the main building.
> These buildings shall be smaller than the primary structure.

The proposal does a very good job of reducing the mass of the primary building by making the bedroom unit and garage separate secondary structures. The secondary structures are set back from the primary, south, elevation of the main structure, are smaller, and are connected by walkways.

There are a few Other Guidelines applicable to this construction project.

Other standard 1 encourages trees and traditional flower gardens, especially the York 'Osterville' rose variety. The applicants will plant additional native plants.

Other standard 2 requires that significant trees be preserved. The proposal pledges to preserve significant trees. The report is devoid of facts concerning whether the seven trees to be removed are "significant" or not.

Other standard 3 concerning street lighting is inapplicable.

Other standard 4 requires roads in the core area to be visually unobtrusive. The gravel to be used in this project is visually unobtrusive.

Other standard 5 encourages street drainage into grass drainage swells. This is inapplicable because drainage goes to the wetland buffer and not the street..

Other standards 6 and 7 require antennas, aerials, and satellite dishes to be hidden. The documentary evidence lacks information.

Other standards 8 and 9 require that signs should be unobtrusive and residential in character. There are apparently no signs to be included in this application.

Other standard 10 encourages picket fences along the street. The design proposes a picket fence to be installed along Sandridge Road. There are no illustrations for this aspect of the proposal to illustrate how this would work with the established stand of trees.

Other standard 11 requires fences to be aligned with the street, to be between 3 and 4 feet tall, not chain link, and natural wood. The design fulfills this requirement.

Other standards 12 and 13 are inapplicable.

Other standard 14 requires that automobile parking be unobtrusive, set back from the street, with garages set perpendicular to the street. The proposed design sites the parking area behind the primary residence and perpendicular to the street, but hidden from the street by trees.

Other standard 15 requires that driveways and parking aprons be minimally intrusive visually, that driveways should not be in front yards and discouraging concrete in favor of gravel. The proposal places parking behind the house, obscured by trees, with a gravel drive.

Finally, Other standard 16 requires that walkways to the buildings should be subordinate in character using gravel, crushed shells, wooden boardwalks, or concrete in a muted color. While the applicants state that there will be no walkways (p.23 of 130) there are walkways between the main building and subordinate building. If they are using gravel for the driveway, the applicants are likely to use similar materials for these walkways.

The County complied in all respects with public notification requirements.

The proposal is within the Restricted Residential R-1 designation and the General Rural comprehensive plan district, but these have no legal impact. The legal impacts of the Shoreline Management Master Program and the Critical Areas and Resource Lands are addressed in a separate application.

All findings of fact that are also conclusions of law shall be treated as such. All conclusions of law that are findings of fact shall be treated 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;

3. The structure shall be consistent with the Oysterville Design Guidelines in design and materials.

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 strict deadline or the appeals process, please consult an attorney.

Signed this 21st day of March, 2024.

Eric Weston, Hearings Examiner