

ISLAND COUNTY HEARING EXAMINER

re: Appeal by Gebert and Hodge of S-
VAR Type II Decision (Permit 351/22)

APL 401-23
SVAR 352/22

POST CONFERENCE ORDER

Required Actions by Parties

The Hearing Examiner, having reviewed the pleadings and submissions of the parties and the record specifically for this hearing, and seeing a number of issues that should be made clear before a hearing, with the authority Pursuant to §§10 and 24 of the Rules of Procedure for the Proceedings Before The Hearing Examiner of Island County (ICHE), as authorized by ICC 16.13.100, the Hearing Examiner hereby orders further, supplementing prior orders:

ORDER

1. Issues Identified and Agreed to by the Parties as to the Scope of Appeal and Hearing to take place at the same time:

- A. Whether or not the Project complies with all requirements of the Shoreline Residential – Historical Beach Community designation;
- B. Whether or not the Project complies with WAC 173-27-170(1) and WAC 173-27-170(2)(a), (b), and (e);
- C. Whether or not the Project is within a setback or buffer;
- D. Whether a condition limiting the Project to 2,200 feet of impervious surface precludes reasonable use;
- E. Whether or not the SEPA Threshold Decision should have been made prior to administrative decision;

F. Whether or not the Project complies with Department of Ecology Regulations;

All of the above related to whether or not the Department should have denied or granted the variance.

2. Issues of Evidence

- A. Neither party has identified any objections to the evidence put forward and filed with the Office of the Hearing Examiner by the Department or the Appellant.
- B. The Department will file the “CIA document” referenced in their pre-hearing memo by **May 30, 2025**.
- C. Appellant will file the following documents referenced in their pre-hearing memo by **May 30, 2025**:
 - i. Photographs of the project site and its surroundings;
 - ii. Annotated aerial photograph showing portion of property outside the shoreline jurisdiction;
 - iii. County and Department of Ecology decisions on Permit #034/22 S-VAR and 104/23 S-VAR.
- D. The Department will re-number the electronic file names to match their Exhibit List, such that the Exhibit numbers are the beginning of the file name by **May 30, 2025**.

3. Stay of Proceedings:

- A. By agreement of the parties, these proceedings are stayed until and reset on **the next pre-hearing conference date**.

B. The Appellant specifically waives the speedy hearing rights through the representations of their attorneys of record at the pre-hearing conferences.

4. 2nd Pre-Hearing Conference

A. A **2nd pre-hearing on this matter** will be noticed and set for: December 4, 2025 at 9:30 am to be facilitated virtually through the Office of the Hearing Examiner.

SO ORDERED this 15th day of May 2025



Rajeev D. Majumdar, Hearing Examiner