



COUNTY OF LAKE
WATER RESOURCES DEPARTMENT
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Director

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Item 6a
9:05 A.M.
January 25, 2024

STAFF REPORT

TO: Planning Commission

FROM: Scott De Leon, Water Resources Director 

SUBJECT: Administrative Appeal 22-01 of Lakeshore Associates Inc. Lakebed Encroachment Permit 2022-25

DATE: December 7, 2023

ATTACHMENTS:

1. Notice of Violation – Lakeshore Associates
2. Site Photos
3. Lakebed Encroachment Map
4. Appeal Package

I. BACKGROUND AND AUTHORITY

The Lakebed Management Division of the Lake County Water Resources Department (Department) is responsible for maintaining the public trust lands below the high-water mark (7.79 ft Rumsey) in Clear Lake, in accordance with Lake County Code, Chapter 23, Shoreline Ordinance (Chapter 23, Shoreline Ordinance), and State Statutes of 1973 Chapter 639. One role is the establishment of minimum standards for the construction, alteration, removal, and maintenance of structures or other prescribed activities in the lake.

Per Lake County Code, Chapter 23 Sec. 23-4. – *Permit Procedure*, “No person shall undertake or carry out any of the following activities within the nearshore or foreshore without first obtaining an administrative encroachment permit from the Lakebed Management. (A) Constructing or placing any pier, boat ramp, boat launching facility, navigational structure, buoy, jetty, breakwater, marina, harbor, shorezone protective structure, or any other improvement, a portion of which lies within the foreshore or nearshore. The terms "construction or placement" include any additions or alterations to existing structures. (B) Filling or dredging. (C) Constructing or placing in the lake any cable, pipeline or subaqueous conduit. (D) Any use, operation, or activity with a

significant impact on the public trust purposes of commerce, navigation, recreation, and fisheries. (E) Beach clearing.”

II. PROJECT BACKGROUND

Water Resources staff were contacted in late 2021 and advised that work was being performed on a pier structure located 11360 North Drive (APN 036-091-05, Owner: Lakeshore Associates), and the complainant was concerned that the work was being performed without permits. Staff searched internal records and found no evidence of a permit for this location, and a site visit was scheduled. On 06/14/2022, Department staff made a site visit to the subject property to inspect the lakebed structure and observed recently poured concrete, which was placed without the benefit of a permit. Photographs were taken to document the construction, and staff processed a Notice of Violation for construction without a permit. Copies of the Notice of Violation and the photographs are included with this report as Attachments 1 and 2, respectively.

Due to the relatively minor nature of the repair work, the Notice of Violation required the owner obtain an ‘after-the-fact’ Lakebed Encroachment Permit for the work performed on the structure. The property owner, Lakeshore Associates, applied for the permit, however during the public notice period of the processing of that permit staff received an appeal from the neighbor at 11380 North Shore Drive (APN 036-091-06 Owner: Richard and Lana Schieder). The appellant argued that a portion of the structure is encroaching on his property and is interfering with his ability to access his property from the lake. The appellant further indicated that the subject pier/dock structure has been involved in a neighbors’ dispute since the late 1950s.

In accordance with County Code, appeals of permits are to be heard and decided by the Planning Commission, or on appeal, by the Board of Supervisors.

III. LEASE AND PERMIT HISTORY

The lakebed structure on Chapter property has no permit history - other than the subject Lakebed Encroachment Permit 2022-25 – as the structure was originally placed before the Chapter 23, Shoreline Ordinance was adopted in 1976. The owner, Lakeshore Associates, has a current Lakebed Lease for the pier, which was recorded in July, 1997.

The current configuration of the structure on the subject property would be deemed “non-conforming” because it does not have the required property line offsets per Ch 23 Shoreline Ordinance Sec. 23-6.2 – *Placement of Piers, Docks Buoys, Boat Ramps and Launching Facilities* which requires, in part, that piers be placed within: “(A) An area within lines extended parallel to and ten feet (10’) inward of property lines extending lakeward from the high water mark (7.79 feet Rumsey) into the foreshore and nearshore.” In other words, lakebed structures must maintain a ten-foot (10’) setback from the property line. Not only does this pier not meet the setback requirements, but it was also

originally constructed crossing the boundary line. A copy of the Lakebed Encroachment Map is included as attachment 3.

As described above, this structure is considered “non-conforming”, which, under certain circumstances, is allowed by Chapter 23, Shoreline Ordinance. Furthermore, Section 14.2 *Repairs of Non-conforming Structures* permits repairs to non-conforming structures and allows them to remain in place, so long as the structure is not expanded, or the cost of repairs does not exceed 50% of the current replacement cost. In this case, staff did not feel the cost of repairs exceeded the threshold of 50% of the replacement cost and planned to issue this permit until it was appealed.

The appellant’s appeal paperwork describes the work as “*unlawful and non-consensual expansion and enlargement of historical dock*” and references an agreement from 1956 that he suggests prohibits the work performed. This agreement notwithstanding, in the staff’s opinion the work performed is not an expansion or enlargement of the structure, but rather the reinforcement of the existing piling foundations and is allowed under the aforementioned Section 14.2 *Repairs of Non-conforming Structures* of the Shoreline Ordinance. A copy of the appeal paperwork and agreement is included as Attachment 4.

IV. RECOMMENDED ACTION

Staff recommends the approval of Lakebed Encroachment Permit 2022-25.

VII. SAMPLE MOTION

I move that the Planning Commission find that the Lakebed Encroachment Permit 2022-25, applied for by Lakeshore Associates for work performed on a lakebed structure at 11360 North Drive does meet the requirements of Chapter 23, Shoreline Ordinance and deny the Administrative Appeal 22-01 and direct Water Resources staff to issue the permit.