

NOTICE OF DECISION

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

Applicant: Paul Scollard
7176 Pipeline Road
Sedro-Woolley, WA 98284

Agent: Janet Cray
Aqua-Terr Systems, Inc. (ATSI)
21993 Grip Road
Sedro-Woolley, WA 98284

Request: Critical Areas Variance, PL14-0193

Location: 7176 Pipeline Road, within NE1/4 Sec. 8, T35N, R6E, W.M.

Land Use Designation: Rural Reserve

Summary of Proposal: The applicant seeks a reduction of the standard 100-foot buffer on a Type F stream to accommodate an addition to his residence to allow for handicapped accessibility.

SEPA Compliance: Exempt

Public Hearing: August 13, 2014. Testimony by Staff and on behalf of Applicant. No public testimony. Planning and Development Services (PDS) recommended approval.

Decision/Date: The application is approved subject to conditions. Dated August 29, 2014.

Reconsideration/Appeal: A Request for Reconsideration may be filed with PDS within 14 days of the date of this decision. The decision may be appealed to the Board of County Commissioners by filing an appeal with PDS within 14 days of the date of decision or decision on reconsideration, if applicable.

Online Text: The entire decision can be viewed at:
[www.skagitcounty.net/hearing examiner](http://www.skagitcounty.net/hearing_examiner)

FINDINGS OF FACT

1. Paul Scollard (Applicant) seeks a Critical Areas Variance to build an addition to his existing residence.

2. The property is located at 7176 Pipeline Road within the NE1/4 Sec. 8, T35N, R6E, W.M. The parcel number is P40843.

3. The property is within a Rural Reserve zone and comprises approximately 2.04 acres. The site is primarily in forest with some cleared and landscaped areas adjacent to the existing home, built in 1974. The Applicant purchased the property in 1983 with the existing residence and outbuildings in their current locations.

4. The parcel is an irregular pie-shaped lot bounded by Pipeline Road to the east and bisected by a Type F (fish-bearing) stream. The existing structures are nonconforming to the 100-foot critical areas buffer.

5. The existing house has a foot print of about 1000 square feet. The proposal is to build a 988 square foot addition, containing living and bathing facilities accessible by wheelchair. The result will make the setback from the stream about 20 feet, a reduction of the standard buffer of more than 50%.

6. The Applicant is handicapped and his residence does not have living/bathing facilities that he can access on the main floor. The addition will include the construction of a ground floor private bedroom and full bath. There will also be an interior remodel of the kitchen, dining room and laundry facilities.

7. The addition, as located, will limit the need to remove mature trees on site. The area proposed for construction is currently mowed lawn.

8. The location of roads, critical areas, buffers and structures constitute special circumstances. The issuance of a zoning variance will not provide sufficient relief to avoid a variance to the critical areas setback.

9. A site assessment and mitigation plan was prepared by a qualified professional (ATSI), utilizing the best available science. The assessment supports a modification of the critical areas setback.

10. With the project as proposed, there will be no direct impacts to critical areas. But, it is not possible to avoid impacts to the standard 100-foot riparian buffer because the buffer spans the majority of the property from the creek to the road. The proposed mitigation includes buffer enhancement and averaging. The standard buffer will be expanded by 1000 square feet at the north end of the project.

11. Mitigation will include removal of invasive English ivy, the planting of a minimum of four native trees and a minimum of 792 native shrubs in the approximate 20-foot strip between the existing buildings and the creek. The buffer area remaining after the project will be placed within a Protected Critical Area (PCA). Over time the enhanced buffer will provide all necessary riparian functions and values.

12. The site assessment and mitigation plan allows for the development of the property with the least impact on critical areas. The variance sought is the minimum that will make possible the reasonable use of the property, and granting it will be consistent with the general purpose of the Critical Areas Ordinance. No significant adverse impacts to the Type F stream or to the public welfare will occur.

13. The inability of the Applicant to meet the dimensional standards is not the result of actions by the current or previous owner in subdividing or adjusting a boundary line. The granting of the variance is justified by the special circumstances and is not simply for the economic convenience of the Applicant.

14. The Staff Report analyzes the proposal against the relevant approval criteria and finds that, as conditioned, the project will be consistent with them. The Hearing Examiner concurs with this analysis and adopts the same. The Staff Report is by this reference incorporated herein as though fully set forth.

15. The proposal was circulated to various County agencies. Their comments are reflected in conditions of approval.

16. The application and hearing were properly noticed as required by law. One comment letter was received, raising a concern that herbicides used might pose a risk to the Type F stream. The Applicant's consultant responded that the only herbicide that may be used is approved for water application, but that no spraying will occur in the stream in any event.

17. Any conclusion herein which may be deemed a finding is hereby adopted as such.

CONCLUSIONS OF LAW

1. The Hearing Examiner has jurisdiction over the subject matter of this proceeding.SCC 14.24.140(b).

2. The application is exempt from the procedural requirements of the State Environmental Policy Act.

3. The proposal, as conditioned, is consistent with the criteria for a Critical Areas Variance, SCC 14.24.140(3)

4. Any finding herein which may be deemed a conclusion is hereby adopted as such.

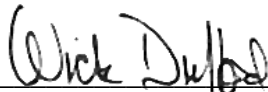
CONDITIONS

1. The project shall be carried out as described in the application materials, except as the same may be modified by these conditions.
2. The applicant shall obtain any other required approvals and abide by the conditions of same.
3. The application shall comply with all applicable state and local regulations.
4. The recommendations of the Critical Areas Assessment and Mitigation Report (ATSI, April 1, 2014) shall be considered conditions of approval.
5. The applicant shall verify that the proposed addition will not impact the existing drainfield or provide a new drainfield design prior to approval of the building permit.
6. Health Department approval of the drinking water source shall be obtained prior to or concurrent with the building permit application submittal.
7. All buffer enhancement plantings must be installed prior to the final building inspection.
8. Monitoring reports shall be submitted no later than December 31 in years 1, 2, 3 and 5 following installation of the buffer enhancement plantings. An as-built drawing of the mitigation area must be provided with the year 1 monitoring report.
9. The mitigation plantings must meet the goals and performance stands outlined in the ATSI report.
10. A PCA site plan shall be recorded in the County Auditor's office prior to approval of the building permit application.
11. The variance shall expire if the use or activity for which it is granted is not commenced within three years of final approval. Knowledge of the expiration date is the responsibility of the Applicant.
12. Failure to comply with any permit condition may result in permit revocation.

DECISION

The requested Critical Areas Variance (PL14-0193) is approved, subject to the conditions set forth above.

DONE, this 29th day of August, 2014.



Wick Dufford, Hearing Examiner

Transmitted to Applicant, August 29, 2014.

See Notice of Decision, Page 1, for appeal information.