

NOTICE OF DECISION

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

- Applicant:** Kinsey Jarvis
425 Nelson Street
Sedro-Woolley, WA 98284
- Request:** Critical Areas Variance, PL18-0415
- Location:** 1655 Barrel Springs Road, within SW1/4 Sec. 12, T36N,
R3E, W.M. Parcel number: P47823
- Land Use Designation:** Rural Reserve
- Summary of Proposal:** To reduce a 50-foot Type N stream buffer, and the 150-foot Category II buffers for Wetlands A, B and C. The reductions are to allow the construction of a single family residence and a shop in the southeast corner of the parcel. The reductions are to buffers of 23 feet, 55 feet, 97 feet and 60 feet respectively.
- Public Hearing:** By telephone on July 8, 2020. Testimony by Planning and Development Services (PDS) staff, and the applicant. No public testimony.
- Decision/Date:** The application is approved, subject to conditions. July 21, 2020
- Reconsideration/Appeal:** Reconsideration may be requested by filing with PDS within 10 days of this decision. Appeal is to the Board of County Commissioners by filing with PDS within 14 days of this decision, or decision on reconsideration if applicable.
- Online Text:** The entire decision can be viewed at:
www.skagitcounty.net/hearingexaminer

FINDINGS OF FACT

1. Kinsey Jarvis seeks a critical areas variance to reduce critical areas buffers to allow the construction of a single family residence and shop.
2. The site is located east of Blanchard Mountain at 1655 Barrel Springs Road within SW1/4 Sec. 12, T36N, R3E, W.M. The parcel number is P47823.
3. The parcel is about 1.38 acres in size, heavily vegetated with mature native trees and shrubs. There is a slight slope is from south to north. The parcel is 262 feet wide along the west side on Barrel Springs Road and 237 feet deep. The adjacent properties to the north and south are developed with single family residences.
4. Three wetlands occupy portions of the property. Wetland A is located in the southwest portion of the property receiving water from a seasonal creek that flows northerly into Wetland B which surrounds the creek along the east side of Barrel Springs Road. Wetland C is a predominantly un-vegetated pond in the north-central part of the parcel that drains into a roadside ditch on the east side of the road. The property is in the Friday Creek drainage.
5. The proposal is to build a residence in the southeast portion of the parcel with a 1750 square foot footprint and an adjacent shop building with an approximately 1,500 square foot footprint. The building envelope for the residence and shop will be 23 feet from the creek (Type N – non fish bearing), 55 feet from Wetland A, 97 feet from Wetland B, and 60 feet from Wetland C.
6. The Critical Areas Ordinance requires a Fish and Wildlife Conservation Area buffer of 50 feet for Type N streams. SCC 14.24.530(2). An optional wetland buffer of 150 feet is called for in relation to low impact Category II wetlands when a site assessment is completed by a qualified professional. SCC 14.24.230(1)(b). Here such an assessment was performed by Miller Environmental Services.
7. The critical area buffers in this case encumber the entire property, necessitating a variance for construction of the project. The septic system is proposed to be located behind the structures, as close to the southeastern property boundary as possible. Testimony at the hearing established that there is enough room for the drainfield.
8. The proposed development has been located as far away from the critical areas as feasible.
9. The site assessment proposes approximately 13,200 square feet of buffer enhancement through the planting of native trees and shrubs after removal of any invasive plants from the mitigation area. 206 additional conifers and shrubs will be planted.

10. Notice of Development Application was published, posted and mailed on August 1, 2019. One comment letter was received. Scott Svege, owner of the adjacent lot to the north, advised that his drainfield is located by legal easement in the northeast corner of the applicant's parcel. It is not expected that the proposed project will have an adverse impact of the Svege drainfield.

11. No government agencies or departments expressed concerns. A building permit will be required for each of the proposed structures. A water source application must be approved prior to submittal of the building permit application.

12. The Staff evaluated the application in light of the critical areas variance criteria and found that, as conditioned, the reduction of the buffers sought will be consistent with these criteria. 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.

13. The size of the historically platted lot and the location of the wetlands and stream onsite leave little room for development. The residential development proposed is typical of the area. Residential use is a reasonable use of the property. Reducing the buffers as proposed is the minimum possible to allow development of the site.

14. The remaining buffer will be enhanced and identified as a Protected Critical Area, permanently protected from future development.

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

CONCLUSIONS OF LAW

1. The Hearing Examiner has jurisdiction over these proceedings. SCC 14.24.140(1)(b).
2. The proposal is exempt from the requirements of the State Environmental Policy Act (SEP). WAC 197-11-800(1).
3. The proposed variance complies with the relevant criteria for approval of a critical areas variance. SCC 14.24.140(3).
4. The proposed variance is the minimum variance that will make possible the reasonable use of the property.
5. The granting of the variance will be in harmony with the general purpose and intent of the Unified Development Code.
6. The proposed variance meets the criteria of SCC 14.10.040(d).
7. Any finding which may be deemed a conclusion is hereby adopted as such.

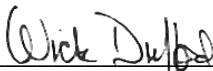
CONDITIONS

1. The project shall be constructed as described in the application materials, except as the same may be modified by these conditions.
2. The applicant shall obtain all required permits and abide by the conditions of same.
3. The recommendations of the Critical Areas Assessment Report dated September 1, 2017, prepared by Miller Environmental Services, LLC, shall be considered conditions of approval.
4. A minimum of 21 native conifers and 185 shrubs must be planted within the remaining wetland/stream buffer area as mitigation for potential project generated impacts. A detailed planting plan must be submitted with the building permit application for the house. All required plants must be installed prior to final inspection of the house.
5. All mitigation plants shall maintain a survival rate of 90% following the first year and 80% the following years. If the plants do not meet those survival rates, a qualified professional must assess the site and determine the best method to improve the rate of survival of additional native plants.
6. A Protected Critical Area (PCA) site plan shall be recorded with the County Auditor's office prior to submittal of the building permit application.
7. Temporary erosion/sedimentation control measures shall be used in accordance stormwater management requirements.
8. The applicant shall comply with all applicable State and local regulations, including but not limited to Chapter 173-200 and 201A WAC (surface and ground water), Chapter 173-60 WAC (noise), Chapter 14.32 SCC (stormwater management), Chapter 14.16 (zoning).
9. The critical areas variance shall expire if the use or activity for which it is granted is not commenced within three years of its final approval. Knowledge of the expiration date is the responsibility of the applicant.
10. The applicant shall supply a copy of this decision with the building permit application.
11. If the applicant proposes any modification of the subject proposal, as approved, he shall notify PDS prior to the start of construction.
12. Failure to comply with any permit condition may result in permit revocation.

ORDER

The requested Critical Areas Variance (PL18-0415) is approved, subject to the conditions set forth above.

SO ORDERED, this 21st day of July, 2020.



Wick Dufford, Hearing Examiner

Transmitted to Applicant, County staff and interested parties July 21, 2020.

