

## NOTICE OF DECISION

### BEFORE THE SKAGIT COUNTY HEARING EXAMINER

- Applicant:** Ms. Joannell Tyler-Finegan  
1500A East College Way  
Mount Vernon, WA 98273
- Request:** Critical Areas Variance, PL20-0048
- Location:** 19334 West Big Lake Boulevard, within NW1/4 Sec. 7,  
T33N, R5E, W.M. Parcel number: P78695
- Land Use Designation:** Rural Reserve
- Summary of Proposal:** To reduce a 50-foot Type N stream buffer to 20 feet and to reduce the buffer from a Category IV wetland from 40 feet to 32 feet. The reductions would allow an existing storage container, used as a garden shed, to remain at its current location.
- Public Hearing:** By telephone on July 8, 2020. Testimony by Planning and Development Services (PDS) staff and by 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](http://www.skagitcounty.net/hearingexaminer)

## **FINDINGS OF FACT**

1. Joannell Tyler-Finnegan seeks a Critical Areas Variance to reduce the stream buffer and the wetlands buffer from an existing storage container used as a garden shed.
2. The location is at 19334 West Big Lake Boulevard. The parcel is within NW1/4 Sec 7, T33N, R5E, W.M. Parcel number: P78695
3. The request is to reduce the buffer from an unnamed stream from 50 feet to 20 feet and to reduce the buffer from a Category IV wetland from 40 feet to 32 feet.
4. The site is on the upland side of Big Lake Boulevard. A storage container was set into the hillside in front of applicant's house near the stream and wetland in about 2008 when its location was bare ground. The container is now partially obscured by vegetation.
5. The subject parcel as a whole is well-vegetated with mature native trees and shrubs. The slope downward from west to east is steep. Access is by an existing gravel driveway.
6. The application is for an after-the-fact permit to retain the container in its current location. The proposal is to add to and enhance vegetation in the nearby buffers to provide further visual masking. The effect will be to minimize the environmental impact, including the visual impact.
7. The watercourse is a Type N (non-fish-bearing) stream which is seasonal and less than two feet wide between bankfull widths. At the outlet of the on-site culvert under the driveway, the stream channel is approximately 20 feet from the corner of the container. It drains into Big Lake
8. The identified wetland originates from a piped hillside seep east of the container. It is on a slope with limited vegetation. The ultimate flow is into the stream. The container is approximately 32 feet from the wetland.
9. A Critical Area Site Assessment, dated June 25, 2019, was prepared for the applicant by Bachman Environmental, LLC. The assessment recommends 2,760 square feet of buffer enhancement and a buffer addition of 4,300 square feet.
10. Notice of Development Application was published on February 13, 2020. Notification was provided by mail to all owners within 300 feet of the property. Two comment letters were received. One, from a neighbor, was in support of the application. The other from the Skagit River Cooperative, asked that conifer trees be included in the mitigation plan.
11. The application was circulated to appropriate departments and agencies. There were no critical comments. A building permit will be required for placement of the container.

12. The Staff evaluated the application in light of the Critical Areas Variance approval criteria and determined that, as conditioned, the proposal meets the 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. Retaining the container in place as a storage shed will be less environmentally destructive than taking it out would be. The setback reductions proposed will allow continuation of a reasonable use of the property with minimal impact.

14. 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 (SEPA), 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(1).
4. The granting of the variance will be in harmony with the general purpose and intent of the Unified Development Code and consistent with SCC 14.10.040(d).
5. Any finding which may be deemed a conclusion is hereby adopted as such.

### **CONDITIONS**

1. The proposal 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 all required permits and abide by the conditions of same.
3. The recommendations of the Critical Area Site Assessment and Buffer Variance Proposal, dated June 25, 2019, by Bachman Environmental, LLC, shall be considered conditions of approval.
4. The applicant shall incorporate a coniferous component into the planting plan.
5. A detailed planting plan shall be submitted with the building permit application. All required plants shall be installed prior to final inspection of the storage container.
6. All mitigation plants shall maintain a survival rate of 80% following the fifth year of installation. If the plants do not meet that survival rate, a qualified professional must assess the site and determine the best method to improve the rate of survival for additional native plants.

7. A Protected Critical Area (PCA) shall be recorded with the County Auditor's Office prior to submittal of the building permit application.

8. Temporary erosion/sedimentation control measures shall be used in accordance with stormwater management requirements. The applicant shall comply with all other applicable State and local regulations.

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.

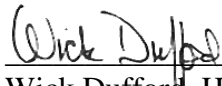
11. If the applicant proposes any modification of the subject proposal, as approved, she shall notify PDS prior to the start of planting.

12. Failure to comply with any permit condition may result in permit revocation.

### **ORDER**

The requested Critical Areas Variance (PL20-0048) is approved, subject to the conditions set forth above.

**SO ORDERED**, this 21<sup>st</sup> day of July, 2020.



\_\_\_\_\_  
Wick Dufford, Hearing Examiner

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

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