

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

FINDINGS, CONCLUSIONS AND DECISION

Applicant: Robert Sjoboen
9257 Thunderbird Place
Concrete, WA 98237

File No: PL07-0197

Request: Waiver of Development Moratorium

Location: 9257 Thunderbird Lane, within a portion of Sec. 24.
T35N, R8E, W.M.

Parcel Nos: P44195, P44493

Land Use Designation: Rural Resource and Agriculture-NRL

Summary of Proposal: To obtain a waiver of the six-year development moratorium on 105 acres of land to allow the applicant to proceed with an application for subdivision of the property into four parcels for residential development.

Public Hearing: After reviewing the report of Planning and Development Services, the Hearing Examiner conducted a public hearing On June 13, 2007

Decision: The application is approved, subject to conditions.

FINDINGS OF FACT

1. Robert Sjoboen (applicant) seeks a waiver of the six-year development moratorium imposed by virtue of a Forest Practices Application approval on May 5, 2005.
2. The application for waiver was deemed completed on April 11, 2007. A Notice of Development Application was posted and published on April 19, 2007. No comment letters were received during the comment period.
3. The site consists of 105 acres located 9257 Thunderbird Lane, within a portion of Sec. 24, T35N, R8E, W.M. The zoning is Rural Resource and Agriculture-Natural Resource Lands (NRL). Parcel numbers are P44195 and P44493.
4. The property is located on the northern bank of the Skagit River in an area of relatively low topographic relief. The site is currently used as a cattle ranch with the majority of the area in pasture. Nevertheless, some timber remains. The property is within the Skagit River migration area, but the area in which timber was harvested is much more than 200 feet from the river.
5. Except for the Skagit River, no wetlands or streams were observed on the subject site.
6. The surrounding uses are a patchwork of pasture lands and single family residential development.
7. Critical Areas review revealed no impacts from timber harvest activities within any critical areas or associated buffers.
8. Under the Critical Areas Ordinance (SCC 14.24.110(6)(c), the applicable criteria for lifting a development moratorium are as follows:
 - (i) A critical areas site assessment must be prepared The site assessment shall determine the level of impacts to County regulated critical areas and associated buffers that have occurred due to logging and any associated conversion activity. The site assessment shall also include an estimated time needed for recovery of the critical area to a state comparable to what it was before the forest practice took place.
 - (ii) If, based on the prepared site assessment and comments received, the Hearing Examiner determines the critical area(s) and associated buffers can be achieved within 6 years, then a mitigation plan shall be prepared and implemented consistent with the CAO and the [moratorium] shall be lifted.

9. Because no adverse effect to any regulated critical area or buffer has occurred, no time is needed for recovery and there is no need for a mitigation plan.

10. The contemplated land division would include installing domestic water supply wells and septic systems, plus constructing access roads. The applicants have been advised of the steps needed to apply for land division approval.

11. A letter signed by seven area residents opposing the waiver was received. The letter, however, addressed concerns with the subdivision which is subject to a separate application.

12. The staff recommends approval of the waiver application with the creation of a Protected Critical Area (PCA) incorporating all fish and wildlife habitat conservation areas and associated buffers.

13. 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 persons and the subject matter of this proceeding. SCC 14.24.110(6).

2. The facts support a conclusion that the application has met the criteria for waiver of the six-year development moratorium on the subject property.

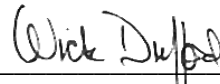
3. Any finding herein which may be deemed a conclusion is hereby adopted as such.

DECISION

The application is approved, subject to the following conditions:

1. All fish and wildlife habitat conservation areas and associated buffers shall be included in a Protected Critical Area (PCA) according to SCC 14.24.170. The PCA shall be recorded with the Auditor's office. The PCA may be completed in connection with approval of the proposed land division.

2. In the land division approval process, the applicant shall insure that envelopes are provided to give notice to all signatories to the letter dated April 25, 2007, protesting the waiver, as well as to all neighbors within 300 feet of the property.



Wick Dufford, Hearing Examiner

Date of Action: July 23, 2007

Date Transmitted to Applicants: July 23, 2007

RECONSIDERATION/APPEAL

As provided in SCC 14.06.180, a request for reconsideration may be filed with Planning and Development Services within 10 days after the date of this decision. As provided in SCC 14.06.120(9), the decision may be appealed to the Board of County Commissioners by filing a written Notice of Appeal with Planning and Development Services within 14 days after the date of the decision, or decision on reconsideration, if applicable.