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KATHY HILL
SKAGIT COUNTY AUDITOR

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REQUEST OF _____

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AFTER RECORDING RETURN TO:
SKAGIT COUNTY HEARING EXAMINER
302 SOUTH FIRST STREET
MOUNT VERNON, WA 98273

DOCUMENT TITLE: ORDER ON VARIANCE VA 99 0074

GRANTOR(S): SKAGIT COUNTY HEARING EXAMINER

GRANTEE: CASCADE RIVER COMMUNITY CLUB

ASSESSOR PARCEL NO: P63696

ABBREVIATED LEGAL DESCRIPTION: Lot 146, Cascade River Park Div. I, within Section 11, Township 35 North, Range 11 East, W.M., Skagit County, Washington.

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VA 99 0074.ORD

SKAGIT COUNTY HEARING EXAMINER
STATE OF WASHINGTON

In the matter of:

Application No. VA 99 0074
of CASCADE RIVER COMMUNITY CLUB
for a Variance for:
construction of a community water storage tank
within the sideyard setback requirements

)
) Findings of Fact
) Entry of Order
) No. VA 99 0074
)
)
)

THIS MATTER having come regularly before the Skagit County Hearing Examiner for a Public Hearing under an application filed with the Skagit County Planning and Permit Center on behalf of the Applicant requesting a Variance as described in the attached Report and Findings of that department, and located at Lot 146, Cascade River Park Div. I, within Section 11, Township 35 North, Range 11 East, W.M., Skagit County, Washington;

Assessor Parcel No: 63696

And, notice having been given to all property owners within 300 feet of said property and all matters in the file having been considered together with the testimony, evidence, and exhibits in open hearing and made a part of the record in this matter, the Hearing Examiner makes the following findings of fact.

FINDINGS OF FACT

1. June 9, 1999 was fixed as the date of the public hearing and the Hearing Examiner held a public hearing on that date.
2. All persons present at the Public Hearing were given an opportunity to present evidence and testimony, and all correspondence received was made a part of the record.
3. The Planning and Permit Center issued a Staff Report and Findings. Findings No. one (1) through fourteen (14) as presented in that Report (a copy of which is attached to this document) are hereby adopted.
4. The Hearing Examiner reviewed this project with regard to the following criteria pertaining to Variances (Section 14.04.223(1)(f), Skagit County Code):

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- (i) That special conditions and circumstances exist which are peculiar to the land or structure or building involved and which are not applicable to other lands, structures, or buildings in the same district,
- (ii) That literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter,
- (iii) That the special conditions and circumstances do not result from the actions of the applicant,
- (iv) The granting of the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures, or buildings in the same district.

CONCLUSIONS

1. The Hearing Examiner makes the following findings as required by Section 14.04.223 (3) of the Skagit County Code:
 - a. The reasons and information submitted in the application and in the testimony and evidence submitted during the hearing and for the record justify the granting of the Variance, and the Variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.
 - b. The granting of the Variance will be in harmony with the general purpose and intent of this Chapter, and will not be injurious to the neighborhood, or otherwise detrimental to public welfare.
 - c. The use proposed is permissible under the terms of this Section in the district involved.

DECISION

The Hearing Examiner **APPROVES** the application for a Variance subject to the following conditions:

1. Prior to start of construction, applicant shall obtain all required permits and approvals.
2. The conditions imposed by Administrative Special Use Permit PL98-0089 shall stand.

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This decision shall become final unless Request for Reconsideration is made in accordance with Skagit County Code §14.01.057 or unless appeal is made to the Skagit County Board of Commissioners in accordance with Skagit County Code §14.01.061.

SKAGIT COUNTY HEARING EXAMINER

BE Furlong
BRADFORD E. FURLONG, PRO TEM

Date of Action: *June 29, 1999*

Date transmitted to applicant:

Attachment: Staff Report and Findings

SKAGIT COUNTY PLANNING & PERMIT CENTER

FINDINGS OF FACT

HEARING AUTHORITY: SKAGIT COUNTY HEARING EXAMINER
HEARING DATE: June 9, 1999
APPLICATION NUMBER: VARIANCE PL99-0074
APPLICANT: Cascade River Community Club
C/o James L. Bernhard
ADDRESS: 14241 59th Ave. So.
Tukwila, WA 98168

PROJECT LOCATION: The property is located on Lot 146 Cascade River Park Division #1,; within a portion of Section 11, Township 35, Range 11 East, W.M. Skagit County, Washington.

PROJECT DESCRIPTION: Variance Request to allow for the construction of a community water storage tank within the sideyard setback requirements.

ASSESSOR'S ACCOUNT NUMBER: 3871-000-146-0005
P NUMBER: 63696

ZONING: Residential Reserve
COMPREHENSIVE PLAN: Rural Reserve

RECOMMENDATION: The Planning and Permit Center recommends approval of the Variance request subject to the conditions and modifications.

EXHIBITS:

1. Application dated February 19, 1999
2. Site Plan
3. Assessor section map
4. Letter of completeness dated March 19, 1999
5. Administrative Special Use Written Order(PL98-0089) dated June 29, 1998

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STAFF FINDINGS:

1. The subject property is zoned Residential Reserve and Comprehensive Plan designates the area as Rural Reserve.
2. Per Section 14.01.033 of the Skagit County Code, a letter of completeness was issued on March 19, 1999. A Notice of Development Application was posted on the subject property and published in a newspaper of general circulation on March 30, 1999 as required by Section 14.01.040(2) of the Skagit County Code.
3. The application has been reviewed in accordance with the State Environmental Policy Act guidelines (WAC 197-11 and RCW 43.21C) and has been found to be exempt.
4. In March 1998, the applicant applied for an Administrative Special Use (PL98-0089) for the upgrading of the existing community water system to State Department of Health standards. Approval was granted in on June 29, 1998 with the following conditions:
 - The applicant shall obtain all necessary approvals and permits (i.e. building permit, utility permit, fill & grade)
 - The permit shall be void if not started within one year of the date of this order.
 - The project shall remain unmanned, except as necessary to monitor and maintain the facility.
 - The applicant shall provide screening around the proposed tank designed to reduce the visual impact of the project.
 - Both the proposed tank and building will need to meet current setback requirements from all property lines.
 - Additional fees for the critical areas site visit will be due with the building permit.
 - Prior to final approval of the building permit and use of the tank, provide proof that the as-built drawings have been provided to the Skagit County Health Department and the engineering construction report and pressure, leakage, and bacteriological test report have been reviewed and approved by the State Department of Health.
 - Per Section 14.04.190(15) a title notice must be recorded with the Auditors office prior to issuance of any building permit.
5. The application was reviewed with respect to the Skagit County Critical Areas Ordinance Chapter 14.06 of the Skagit County Code in connection with the Administrative Special Use done in 1998. Staff conducted a field visit in March 1998 and no critical areas were identified in the area within 200 ft. of the proposed water system tank. No further review is required.

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6. The parcel where the proposed water tank will be located is not in a Flood Hazard Zone. The parcel where the proposed water tank will be located is not within shoreline jurisdiction of the Cascade River.
7. The subject property is currently located adjacent to lands designated as Industrial Forest. The applicant shall comply with the provisions of Skagit County Code 14.04.190 (e)(i), Property Adjacent to Designated Natural Resource Lands, Title Notification. This condition was placed on the Administrative Special Use.
8. The complete project is for the upgrade of the existing community water system to State Department of Health standards. The project includes the installation of a new concrete water storage tank and a small pressure boost facility. The tank is 26 ft. in diameter by 15 ft. in height. The pressure boost building is 11 ft. x 11 ft. in size. The other elements of the project are the installation/replacement of water mains and pressure reducing stations all below grade in the Cascade River Park road system.
9. The parcel in which the storage tank and pressure booster pump will be located is within the plat of Cascade River Park. The lot is located at the corner of East Cascade Drive and Cascade River Road. The property slopes from the northwest side to the southeast side. The lot is approximately 176 ft. long x 71 ft. wide and is accessed from East Cascade Drive. There is a gate for access to Cascade River Road adjacent to this lot. The site has had an existing 10,000-gallon steel water tank on it for over 30 years. A three-side wall surrounds the tank.
10. The parcel is heavily wooded with existing native evergreen trees. There is an existing driveway that provides access to the existing tank on site. The existing steel tank is slated to be removed in the future but may be left on site as a backup to the new storage tank. The other parts of the proposed project are within the street system of Cascade River Park.
11. The applicant is requesting a variance to allow the installation of the new concrete water storage tank to be placed approximately 11 feet from the side property line (adjacent to Cascade River Road) instead of the required 20 ft. The tank is 26 ft. in diameter by 15 ft. in height.
12. Residential Reserve . . Accessory Structures setbacks requirements as listed in Skagit County Code Section 14.04.095(5)(c)(ii) are front-35 feet; A side yard setback of 20 feet is required for all accessory buildings when

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the side property line is adjacent to a street right-of-way; rear-25 feet.

13. Skagit County Public Works has reviewed this application and offered the following comments: Construction plans shall include temporary erosion/sedimentation control. Other departments & divisions provided comments during the review of the 1998 Administrative Special Use.
14. Section 14.04.223(1)(e) Variances of the Skagit County Code states that certain items will be reviewed when approving or denying Variances. Those items are as follows:
 - a. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.

Staff generally recognizes that special conditions and circumstances apply to topographic hardships, i.e., a large ditch or creek or other physical feature peculiar to a particular parcel of property, that has a detrimental impact on a proposed development. Lot 146 is the highest lot available within the development to serve nearby lots with water. Certain topographical conditions exist which make it unfeasible to locate the new tank at the normal 20-foot setback requirement from the county road right-of-way.

The applicant provides the following as justification for the placement of the tank. Shifting the tank to meet the 20-foot setback from the northwest lot line would place a portion of the bottom of the foundation above the existing grade with the remaining portion within the existing grade. This creates a greater potential for differential settlement in the foundation and is not recommended for water storage tanks. By placing the tank at the 20 foot setback line would also cause the toe of the fill slope (at a 2:1 slope) to extend eight feet over the southeast side lot line onto private property (Lot 145). In order to meet the setback requirements together with the tank foundation requirements, the tank would need to be lowered two to three feet. The tank base elevation is critical for providing gravity storage to the portion of the system being served by the gravity distribution system.

There are also extenuating circumstances with the county road right-of-way as it exists adjacent to Lot 146 that justify the granting of the variance. The right-of-way at this location has a half width of 50-feet as compared to the normal county road right-of-way of 30 feet. This unusual right-of-way width was provided in order to accommodate the larger cut and fill slope limits that are required along other stretches of this road. In the area adjacent to Lot 146, the top of the cut falls more than 20-feet inside the right-of-way and thus a 30-foot half width would have been adequate originally. This has resulted in a 20-foot wide

buffer area, which contains a significant number of trees, and a six-foot high bank which provides a visual buffer to the proposed tank. The edge of the pavement is 39 feet from the right-of-way line adjacent to Lot 146, thus providing a total of approximately 50-feet from the edge of the pavement to the proposed tank. Due to the steep natural slope located north of Lot 146 along the road, it would be unlikely that the road could be significantly widened toward Lot 146. In essence, this buffer area will likely remain undisturbed.

- b. That literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter.

Staff notes that the literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter. The tank base elevation is critical for providing gravity pressure to the portion of the water system being served by the distribution system. The tank could not be moved anywhere on the property to achieve the required setback without causing the toe of the fill slope to extend onto the adjoining lot.

- c. That the special conditions and circumstances do not result from the actions of the applicant.

The applicant is not responsible for the topography of the lot. The slope of the property affects where the water tank can be placed to achieve the necessary elevation needed to make the system work. The additional right-of-way also provides additional setback area.

- d. The granting of the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures, or buildings in the same district.

Staff concurs that the granting of this variance will not confer on the applicant any special privilege that is denied to other lands, structures, or buildings in the same district. The use of this lot as a site for water storage is peculiar to this lot only and does not apply to other lots in the community. The requested setback is the minimum variance needed to allow the tank to be built on this lot. Lot 146 is the highest lot available within the development to serve nearby lots with water.

RECOMMENDATION

The Planning & Permit Center recommends approval of the Variance Request subject to the following conditions:

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1. The applicant shall obtain all necessary approvals (i.e. building permit,)
2. The conditions imposed by the Administrative Special Use (PL98-0089) will stand.

Prepared by: MS

Approved by: 