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Kathy Hill, Skagit County Auditor  
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AFTER RECORDING RETURN TO:  
SKAGIT COUNTY HEARING EXAMINER  
302 SOUTH FIRST STREET  
MOUNT VERNON, WA 98273

DOCUMENT TITLE: VARIANCE VA 00 0256

HEARING OFFICER: SKAGIT COUNTY HEARING EXAMINER

APPLICANT: RED and MARGARET URLING

ASSESSOR PARCEL NO: P101006

ABBREVIATED LEGAL DESCRIPTION: located at 20302 East Stackpole Road, Mount  
Vernon, WA; within Section 4 Township 33 North, Range 4 East, W.M., Skagit County,  
Washington.

**SKAGIT COUNTY HEARING EXAMINER**  
**STATE OF WASHINGTON**

In the Matter of the Application of )	
<b>RED &amp; MARGARET URLING</b> )	VA00--0256
)	
For a Variance from the Setback )	Findings of Fact,
Requirement for Rural Resource NRL )	Conclusions of Law
in Relation to the Placement of a Residence )	And Decision
at 20302 E. Stackpole Road. )	
)	

THIS MATTER, an application for a setback variance, came on regularly for hearing on July 12, 2000, after due notice. The Planning and Permit Center appeared by Brandon Black. Members of the public were given an opportunity to be heard.

Testimony was taken, exhibits were admitted, and argument was made. On the basis thereof, the following is entered:

**FINDINGS OF FACT**

1. Red and Margaret Urling (applicants) seek a variance to place a mobile home on a parcel of property designated as Rural Resource - Natural Resource Land by the Comprehensive Plan. The setbacks required on such property are 100 feet on all sides. SCC 14.04.107(5)(c). The applicants propose to locate the structure 220 feet from the front (west) property line, 83 feet from the north side property line, 51 feet from the south side property line and 91 feet from the rear (east) property line.
2. The subject parcel is located at 20302 E. Stackpole Road, within a portion of Sec. 4, T33N, R4E, W.M.
3. The property is about 2.5 acres in size, It is only 200 feet wide (from north to south). It measures 591 feet along the north boundary and about 667 along the south. The west line coincides with the 200 foot width. The east line forms a V-shaped indentation.
4. The mobile home to be used takes up around 1,800 square feet. The proposal is to place it in an area previously cleared and prepared as a residential site. The home will be served by a single-family domestic well already in place on the site and will utilize an individual on-site septic system.
5. Critical Areas review revealed the presence of a Type 5 stream and a Category III wetland. These areas require a 50-foot buffer. The applicants propose to enhance both the stream buffer and the on-site wetland. In the stream buffer between the driveway and the stream, the applicants will plant 1,725 square feet with native shrubs (a



1:1 compensation ratio for buffer impacts). The applicants also will enhance 15,910 square feet of wetland (a 4:1 compensation ratio).

6. Staff recommends the following conditions to satisfy critical areas protection concerns.

(a) A Protected Critical Area (PCA) site plan must be reviewed by staff and recorded with the County Auditor's office showing a 50-foot buffer for the Category III wetland and the Type 5 stream prior to building permit approval.

(b) Erosion and sedimentation control measures must be in place during bridge and road work. No excavation is to take place during rain.

(c) Enhancement work for the wetland must take place prior to, or concurrently with, loss of wetland area.

7. Under SCC 14.04.223, variances are authorized in specific cases where departure from the requirements of the zoning code "will not be contrary to the public interest" and "where, owing to special conditions, a literal enforcement of the provision of this chapter would result in unnecessary hardship." The explicit criteria for approval of a variance are:

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.

b. 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.

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

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.

8. The lot is a legally created building site, brought into existence by subdivision in 1991 (Short Plat 91-85). Given its dimensions, there is no way for a residence to fit on the lot and meet a 100-foot setback on all sides.

9. The surrounding area is rural with scattered residential sites. Residences are located on smaller lots throughout the area. Two of the parcels within this four lot short plat now have residential structures that do not meet the 100-foot setback standard.



10. The placement of the mobile home on the eastern portion of the site will locate it in a previously disturbed area, meeting the front yard setback and allowing compliance with critical areas issues associated with the site. The siting on the eastern portion accommodates critical areas to the west (front) and south. The indented shape of the east line necessitates a minor encroachment on the setback there.

11. Consulted agencies and departments identified no problems that cannot be resolved by conditions of approval. There was no public comment on the proposal, either in writing or in oral testimony.

12. The lot was re-designated to Rural Resource -Natural Resource Land in the new Comprehensive Plane adopted on June 1, 1997. The applicants did cause the lot to become substandard in size for setback purposes.

13. The Staff Report analyzes the proposal against the variance criteria and concludes that, if appropriate conditions are imposed, these criteria will be met. The Examiner concurs in this analysis and adopts the same.

14. The reasons set forth in the variance application justify the granting of the variance. Residential use is a permitted and reasonable use of the property and the proposal is the minimum that will make possible this reasonable use. The proposed development will be in harmony with the general purpose and intent of the zoning code and will not be injurious to the neighborhood, or otherwise detrimental to public welfare.

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

### **CONCLUSIONS OF LAW**

1. The Examiner has jurisdiction over the parties and the subject matter of this proceeding.

2. The proposal is exempt from the procedural requirements of the State Environmental Policy Act. WAC 197-11-800(6).

3. The proposal will meet the variance criteria of SCC 14.04.223.

4. The following conditions should be imposed:

(1) The mobile home shall be placed on the property as shown in the application materials.

(2) The applicants shall obtain all other required permits and approvals from the appropriate jurisdiction.



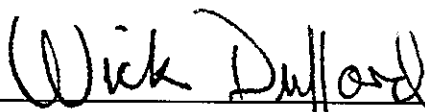
(3) Prior to building permit approval, the applicants must obtain approval for the septic system and provide notification to neighbors about any well protection zone overlap. A Low Flow mitigation must be signed and recorded.

(5) The applicants shall carry out the critical areas mitigation and enhancement measures proposed, and shall comply with the conditions set forth in Finding 6 above.

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

### DECISION

The variance is approved, subject to the conditions set forth in Conclusion 4 above.

  
Wick Dufford, Hearing Examiner

Date of Action: August 11, 2000

Copy transmitted to Applicants: August 11, 2000

Attachment: Staff Report

### RECONSIDERATION/APPEAL

This decision shall become final unless a request for reconsideration or appeal is filed. A request for reconsideration shall be filed with the Hearing Examiner within ten (10) days from the date of this decision. An appeal to the Board of County Commissioners shall be filed with the Planning and Permit Center within fourteen (14) days from the date of this decision, or if reconsideration has been requested, within fourteen (14) days from the decision after reconsideration.



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**SKAGIT COUNTY PLANNING AND PERMIT CENTER  
FINDINGS OF FACT**

**HEARING AUTHORITY:** SKAGIT COUNTY HEARING EXAMINER

**HEARING DATE:** JULY 12, 2000

**APPLICATION NUMBER:** VARIANCE REQUEST PL00-0256

**APPLICANT:** RED AND MARGARET URLING

**ADDRESS:** 1520 W. AINSWORTH  
PASCO, WA. 99301

**PROJECT LOCATION:** Located at 20302 E. Stackpole Road, Mount Vernon, within a portion of Section 4, Township 33N, Range 4 East W.M. Skagit County, Washington.

**PROJECT DESCRIPTION:** Variance request #PL00-0256 from 14.04.107 (5)(c), Rural Resource NRL setbacks, of the Skagit County Code for the purpose of placing a mobile home on a parcel of property not able to meet the required 100 foot setback requirement on all sides. The applicant is proposing to locate the structure 220 feet off of the front (west) property line, 83 feet off of the north side property line, 51 feet off of the south side property line, and 91 feet off of the rear (east) property line.

**ASSESSOR'S ACCOUNT NUMBER:** 330404-2-007-0406, P101006

**ZONING:** The subject parcel is located within a Rural zoning district.

**COMPREHENSIVE PLAN:** The Comprehensive Plan designates the area as Rural Resource Natural Resource Land as identified by the Skagit County Comprehensive Plan and associated maps adopted June 1, 1997.

**RECOMMENDATION:** The Skagit County Planning and Permit Center recommends **approval** of the requested setback variance.

**EXIBITS:**

1. Application dated May 9, 2000
2. Assessor's Section Map
3. Site Plan
4. Letter of Completeness dated May 26, 2000
5. Notice of Development published June 1, 2000
6. Staff findings 1-12.



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**STAFF FINDINGS:**

1. The subject property is zoned Rural and the Comprehensive Plan and associated maps as adopted June 1, 1997 designates the area as Rural Resource Natural Resource Land. A letter of completeness was issued as per Section 14.01.033 (1) of the Skagit County Code and the application was determined to be complete on May 26, 2000.
2. A Notice of Development Application was posted on the subject property and published in a newspaper of general circulation on June 1, 2000 as required by Section 14.01.040(2) of Skagit County Code. The public hearing has been advertised in accordance with the requirements of Chapter 14.01.042 and 14.04 of the Skagit County Code.
3. The application has been reviewed in accordance with the State Environmental Policy Act guidelines WAC 197-11-800 (6)(b) and has been found to be exempt.
4. The subject parcel was reviewed with the respect to the Skagit County Critical Areas Ordinance 14.06 of the Skagit County Code. Staff comments are as follows:

“The proposed Mitigation plan for PL00-0256 appears to adequately address the impacts to the critical areas and associated buffers. The proposal is to enhance the stream buffer and the on site wetland. The applicant proposes to plant 1,725 square feet of stream buffer between the driveway and the stream, with native shrub species. This will be 1:1 compensation ratio for the buffer impact. The applicant also proposes to enhance 15,910 square feet of the wetland for a 4:1 compensation ratio for the wetland impact.”

Staff further indicated that the following conditions shall apply:

- A Protected Critical Area (PCA) site plan must be reviewed by critical areas staff and recorded at the Skagit County Auditor’s office showing a 50-foot buffer on the Category III wetland and the Type 5 stream prior to building permit approval.
  - Erosion and sedimentation control measures must be in place during bridge and road work. No excavation is to take place during rain.
  - Enhancement work for the wetland must take place prior to, or concurrently with, loss of wetland.
5. The subject property is located out of any designated flood hazard.



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6. The subject property is approximately 2.5 acres in size and is located off of the east side of Stackpole Road. The parcel measures approximately 200 feet in width along the east and west property lines, approximately 591 feet in length along the north property line and approximately 667 feet in length along the south property line. The project proposal is to place a 1,800 square foot mobile home on the parcel in an area that has been previously cleared and prepared for a residential site. The structure will be located at least 220 feet off of the front (west) property line, approximately 51 feet off of the south side property line, approximately 83 feet off of the side (north) property line, and approximately 91 feet off of the rear (east) property line. The parcel will be serviced by an individual drilled well currently on site, and will utilize an individual on site septic system.
7. The surrounding area is rural in nature with scattered residential sites. There are residential structures on smaller lots located throughout the area. Two of the parcels within this four lot short plat where this lot is located, currently have existing residential structures that do not appear to meet the required 100-foot setbacks on all sides.
8. The applicant is requesting a variance from Skagit County Code 14.04.107 (5)(c), the 100-foot setback requirement on lands designated as Rural Resource Natural Resource Land, for the purpose of placing a 1,800 square foot mobile home on the parcel not able to meet the required setbacks of 100 feet on all sides. The parcel is a legally created building site, subdivided in 1991 under short plat #SP91-85, however the structure will not be able to meet the 100 foot setback from all of the property lines. The proposal is to place the structure on the eastern portion of the site, in the previously cleared building site area, which will allow the structure to meet the front yard setback requirement and comply with the critical areas issues associated with the site.
9. The application was reviewed by the Skagit County Department of Public Works. Public Works had no comments or concerns with the proposal and recommended approval.
10. The application was routed to Skagit County Environmental Health Specialist for review. Environmental Health indicated that there are no concerns with the proposal and that a septic permit is on file, pending variance approval.
11. The application was routed to the Water Resources division of the Skagit County Planning and Permit Center. Water Resources commented as follows: "Before WA00-0044 can be approved for BP00-1594, the septic needs to be approved for SW00-0125. A Low Flow mitigation is required to be signed and recorded before approval of BP00-1594. The applicant states that the neighboring lot located 85' from the well, has been notified about the overlapping well protection zone. Once the above concerns have been met we have no objection to approval."



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12. Section 14.04.223 (1) (e) Variances of the Skagit County Code states that certain items will be reviewed when approving or denying Variances. Staff comments as they relate to the Variance criteria 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.*

The special conditions and circumstances that exist with this parcel result from the re-designation of this area to Rural Resource Natural Resource Land with the adoption of the June 1, 1997 Skagit County Comprehensive Plan. This parcel has critical areas associated with the front (west) and south side property lines, which forces the structure to locate further east on the parcel, however the variance request is due to the lot width. The parcel is a pre-existing legally created lot that was subdivided in 1991 and currently only measures 200 feet in width. The Rural Resource designation requires a 100-foot building setback on all sides. When the short plat was approved in 1991, which created the existing lots, the setback requirement of 100 feet on all sides was not in place.

The applicant has indicated that the house has been positioned in the best possible location for the existing conditions on site. The parcel measures approximately 200 feet in width, situated in an area that requires a 100-foot setback from the property lines on all sides of a structure. The applicant indicated that there is no portion of the lot that can meet the 100-foot setback from the south property line. The special condition that exists is due to the existing lot dimensions and the existing setback requirement in the Rural Resource Natural Resource Land designation. The parcel is an existing legal lot with a development right, however with the minimum setback requirement and the relatively narrow lot width, the applicant is unable to meet the required 100-foot setback on all sides.

- 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 use proposed by the applicant is a permitted use common with this area. The majority of the lots in this area have existing residential and accessory structures located within the area, constructed prior to the adoption of the Rural Resource designation, which do not meet the required 100 foot setback on all sides, clearly indicating 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.

The parcel is a legally created pre-existing parcel and the applicant has indicated that the proposed building is an allowed use based on the fact that there are other



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similar structures in the surrounding area. The applicant has indicated that there are two other lots in this same plat that have been developed with houses existing that do not meet the 100 foot setback requirement. In order to locate a permitted use on the existing building site, a variance must be obtained due to the new setback requirements imposed on the area with the adoption of the Comprehensive Plan.

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

The applicant has indicated that the conditions did not result from his actions. The applicant has indicated that he purchased the parcel with the conditions existing. The applicant has indicated that the site for the proposed structure exists and that a septic permit and well permit have been approved for the site with no mention of the 100-foot setback requirement for the structure. Moving the proposed location of the building site would still not allow the structure to be able to meet the setback requirement due to the 200 foot lot width. The applicant further indicated that the variance request is not a request for a special privilege, but rather permission to build as the neighbors have been allowed to.

Staff notes that the action of the applicant did not result in the current configuration of the parcel or the current land use designation. With the 100 foot setback requirement and the lot width of approximately 200 feet, it would be impossible to meet the required setback on at least one of the side property lines no matter where the structure is placed. Staff further notes the site would have been able to meet the setback requirements prior to the adoption of the Comprehensive Plan and the designation of the area as Rural Resource NRL with a required setback of 100 feet on all sides. The applicant is proposing to meet the setback requirements on the front property line, (220 feet) which will also reduce the impact on the existing critical areas, however will only be able to be 91 feet off of the rear property line (due to the rear lot line configuration), 51 feet off of the south side property line and approximately 83 feet off of the north side property line.

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, buildings in the same district.*

The applicant has indicated that the granting of this variance request will not confer a special privilege that is denied by this chapter to other lands or structures in the same district. The applicant has indicated that the proposal is to place a mobile home on the parcel for use as a single-family residence and noted that several other parcels in the area have similar size lots with single family residences existing.



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Staff notes that the siting of the structure will not confer a special privilege on the applicant that is denied to other lands in the area because there are similar structures located in the area. Several parcels in the area currently have existing structures that do not meet the required 100-foot setback on all sides. The majority of the parcels in the area are smaller in this size with dimensions that would not allow a structure to meet the setback requirement. This proposal will fit in with the adjoining parcels character and will not create a negative impact on the area indicating that a special privilege will not be granted to the applicant. This proposal will not impact existing resource related activities in the surrounding area and will not create a burden on the adjoining properties.

RECOMMENDATION:

Based on the current code the Planning and Permit Center would recommend **approval** of the requested setback variance to reduce the required 100 foot setback on the parcel and allow the applicant to locate 51 feet off of the south property line, 83 feet off of the north property line, and 91 feet off of the east property line with the following conditions:

1. The applicant shall obtain all permits and approvals from the appropriate jurisdiction.
2. A Low Flow mitigation is required to be signed and recorded before approval of BP00-1594.
3. A Protected Critical Area (PCA) site plan must be reviewed by critical areas staff and recorded at the Skagit County Auditor's office showing a 50-foot buffer on the Category III wetland and the Type 5 stream prior to building permit approval.
4. Erosion and sedimentation control measures must be in place during bridge and road work. No excavation is to take place during rain.
5. Enhancement work for the wetland must take place prior to, or concurrently with, loss of wetland.

Prepared by: BB

Approved by:

Dated: 6-28-00



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