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Skagit County Auditor

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SKAGIT COUNTY PLANNING AND PERMIT CENTER
FINDINGS OF FACT

HEARING AUTHORITY: SKAGIT COUNTY PLANNING DIRECTOR
APPLICATION NUMBER: ADMINISTRATIVE DECISION PL01-0134
APPLICANT: Gilberto DeLeon
ADDRESS: 1968 State Highway 9
Sedro-Woolley, WA 98284

PROJECT LOCATION: Located at 1968 State Route 9, Sedro-Woolley, WA; within a portion of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 7, Township 36 North, Range 05 East, W.M., Skagit County, Wa.

PROJECT DESCRIPTION: Pursuant to SCC 14.16.810(4) the applicant submitted an Administrative Decision request PL01-0134 for the reduction in the required 50 foot front and rear setbacks required by Skagit County Code 14.16.430(b)(i) and (ii)). The permit application was submitted following construction of an accessory dwelling unit/garage forty feet from the front property line and at its smallest distance, 8 feet from a side property line.

ASSESSOR'S ACCOUNT NUMBER: 360507-0-008-0107
PROPERTY ID NUMBER: P#50898
RELATED FILES: BP01-0160 and CE01-0135

COMPREHENSIVE PLAN/ZONING: Rural Resource
STAFF FINDINGS:

1. The subject property is designated as Rural Resource.
2. A letter of completeness was issued on April 9, 2001. A Notice of Development was published and posted on the property on April 12, 2001. All property owners within 300 feet of the property were sent the Notice of Development.
3. The subject property is approximately 1.21 acres in size and is located on the west side of Highway 9 north of Sedro-Woolley. The property is triangular in shape and runs in a north/south configuration. According to the submitted site plan, the property measures approximately 465 feet along the east (front) property line, approximately 200 feet along the north (side) property line, and approximately 520 feet along the west (rear) property line.

There is a primary residence located in the north half of the property. A portion of the property along Highway 9 is level with the highway while the developed portion of the property is elevated. In addition, there is also another benched area north of the existing residence. There is a steep circular driveway located off of Highway 9. The septic system for the existing residence is located to the east of the residence and the well is located south of the residence. An unnamed stream is located along the west property line.

4. The subject property is not located in a Flood Hazard Zone per FIRM Map 530151 0055C dated January 1985. The subject property is located within an area designated as Natural Resource Land. Any further permit activity on the property will require compliance with SCC 14.16.870 (1) Notification of Development Activities on or Adjacent to Designated Natural Resource Lands.
5. The initial critical areas review included a map review and a site visit. Based on the site visit and other information utilized for review purposes, staff observed the presence of either a Type 3 (Fish Bearing) or 4 (Non-fish Bearing) stream and steep slopes within 200 feet of the project area. The stream runs along the west property line. At its closest point, the newly constructed building is 8 feet from the stream. The applicant also constructed a small concrete patio area.



outside the southwest corner of the building. The patio is located at the top of the stream bank. Further review of critical areas for the proposed project would require the following:

- A Fish and Wildlife Assessment report produced by a qualified professional (SCC14.24.510 & 14.24.520) must be submitted.
- A Geologic Hazardous Site Assessment report produced by a qualified professional (SCC 14.24.410 and 14.24.420) must be submitted.
- A Low Flow mitigation Summary must be recorded with the Skagit County Auditors office (SCC 14.24.530) because of projects proximity to a designated Department of Ecology low flow water course.

6. As described in the applicant's narrative, they started to build a garage, shop, and storage area for a recreation vehicle. Soon after starting construction, they changed their plans and ended up constructing a two bedroom, 1 bath residential structure with a garage area. Conflicting information has been submitted concerning the size of the residential portion of the building. On the submitted building plans the dimensions of the residential portion are shown as 36' x 30' with a 22' x 48' garage/storage area. The site plan for this request has been revised to show the residential portion as 30' x 30' with the garage area as 22' x 48'.

7. The applicant submitted the necessary building and land use permit applications after construction in order to purchase insurance for the structure along with the existing residence. During review of the building permit application, a determination was made that the structure does not comply with the front and rear setback requirements required for construction within the Rural Resource District. In addition, other code violations of Skagit County Code were also recognized during the review of this application.

8. Skagit County Code (SCC) 14.16.430 (5) Rural Resource Dimensional Standards (b) setbacks accessory- 50 feet from all property lines. The applicant applied for the Administrative Reduction of Setbacks per SCC 14.16.810 (4) which states the Administrative



Official may reduce the required front, side or rear setbacks where topography or critical areas or the lot's size and configuration impact the reasonable development of the property. To reduce the front or rear setback, the Administrative Official must determine that the public health, safety, and welfare will be maintained.

9. According to the applicant, the structure was placed on the only flat and open place to build on the property. This structure is located south of the existing residence approximately 40 feet from the east (front) property line and approximately 8 feet at its closest point from the west (rear) property line. The applicant stated the building was constructed without the benefit of permit review. The well for the existing house is located at the northeast corner of this structure. Based on the site plan submitted, a second septic system is located east of the new structure between the circular driveway and the highway. The applicant also stated that this system was installed without the benefit of any review or permit.

10. Several county code sections are involved with this request. Skagit County Code Section 14.16.850 (2) allows no more than 1 primary dwelling unit per lot of record. SCC 14.16.430(2) Rural Resource permitted uses include (n) residential accessory structures. SCC 14.04.020 definitions (a) accessory dwelling units & (k) Miscellaneous residential support buildings, such as storage sheds, workshops, garages, and barns. Other code sections include SCC 14.24 Critical Areas Ordinance, SCC 14.44 Code Enforcement, SCC 12.05 On-Site Sewage Code and SCC 12.48 Rules and Regulations of the Skagit County Board of Health Governing Individual and Public Drinking Water Systems, and Title 15 Uniform Building Code.

11. Multiple violations of Skagit County Code were identified during the review of this application. These include: Construction of the structure and in violation of Skagit County Code Title 14.16 Zoning, specifically Sections 14.16.430(5)(b)(i) and (iii), SCC 14.16.710 Accessory Dwelling Unit, Section 14.24 Critical Areas. In addition, the construction was accomplished in violation of Title 15 Uniform Building



Code Section 106.1 Permits Required. The construction was in violation of Skagit County Code 12.05 (On site sewage code) and Skagit County Code 12.48.090 Well Site Approval.

According to Skagit County Code 14.44.010(1) Violations, "All violations of SCC Titles 14 and 15, and land use statutes and regulations are hereby declared to be detrimental to the public health, safety and welfare and are hereby declared to be a public nuisance."

12. The application was routed to the appropriate County offices for review. **Public Works**— no comments, **Septic**—There are no records for the proposed/existing septic system for this new building. This will need to be addressed with any building permit application. **Water**—There are no water records on file with the Planning and Permit Center. Per SCC 12.48.020, this new building would need to satisfy SCC 12.48 before a building permit can be issued including the distance/setbacks from any septic systems. Staff notes that the applicant has had the well tested for inorganics and the results came back within the state levels. Site constraints could affect the potential for compliance with the Health Codes. **Critical Areas**—Staff is concerned with the close proximity of the unnamed stream and the structure. According to the submitted site plan, the new building is approximately 8 feet at its closest point to the stream. Depending on the type of stream the buffer setback requirement would be either a 50 feet for a Type 4 stream or 100 feet for a Type 3 stream. Based on site visits completed by staff, there is evidence that the stream bank is eroding. Stream bank erosion is causing sediment delivery to the stream. SCC 14.24.410 indicates that the structure may be located within a geologically hazardous area.

The construction initiated in violation of SCC 14.24 Critical Areas Ordinance does not meet the requirements for buffer widths. Given the lot size and configuration along with the existing layout of the site, mitigation of existing impacts is unlikely. According to SCC 14.44 Code Enforcement, this violation is declared a public nuisance.



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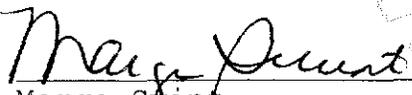
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Decision:

In order to reduce the front or rear setback, the Administrative Official must determine that the public health, safety, and welfare will be maintained. Based on the following findings, the Director hereby **denies** the request for the reduction in setbacks from SCC 14.16.430(b)(i) and (ii) pursuant to SCC 14.16.810(4) for the placement of an accessory dwelling unit/garage within the required 50-foot setback requirement.

1. The structure was constructed without the appropriate development permits and in violation of multiple provisions of Skagit County Codes Titles 14 and 15.
2. One of the most serious of the multiple code violations is the violation of SCC 14.24 Critical Areas Ordinance. Field investigations indicate that stream impacts have occurred as a result of the development.
3. Reasonable use of the small lot is provided by the existence of the primary dwelling unit and its associated water and septic systems.
4. The structure was established without regard for compliance with the requirements of Skagit County Code 12.05 and 12.48 and Title 15 that are in place to protect public health and safety.
5. Given the lot size and configuration and design of the existing site features, additional development in conjunction with standard buffer reductions on the lot would not have been possible if review had been completed prior to construction.


Tom Karsh, Planning Director


Marge Swint,
Associate Planner



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Date of decision: August 22, 2001
End of Appeal period: September 5, 2001

The applicant and/or a party of record may appeal the decision of the Administrative Official to the Skagit County Hearing Examiner pursuant to the provisions of Section 14.06.110(7). Parties with standing to appeal must submit the appeal form and appeal fees to the Planning and Permit Center within 14 calendar days of the date of decision of this Notice pursuant to SCC 14.06.110.



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