



200407140125

Skagit County Auditor

7/14/2004 Page

1 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 WAIVER OF SIX-YEAR MORATORIUM WV04 0118

HEARING OFFICER: SKAGIT COUNTY HEARING EXAMINER

APPLICANT: KEITH JOHNSON

ASSESSOR PARCEL NO: P16603

LEGAL DESCRIPTION: The subject property is located within a portion of the NE 1/4 of the NW 1/4 of Section 10, Township 33N, Range 4E, W.M., Skagit County, Washington.

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

FINDINGS, CONCLUSIONS AND DECISION

Applicant: Keith S. Johnson
18870 Quail Drive
Mount Vernon, WA 98273

File No: PL04-0118

Request: Waiver of Six-Year Development Moratorium

Location: 18870 Quail Drive, within a portion of the NE1/4NW1/4
Sec. 10, T33N, R4E, W.M.

Land Use Designation: Industrial Forest - Natural Resource Land (IF-NRL)

Summary of Proposal: To be allowed to pursue permits that would allow
construction of a commercial communication tower
and equipment building in an area harvested under
a Forest Practice Application approved June 15, 2001.

Public Hearing: After reviewing the report of the Planning and Permit
Center, the Hearing Examiner conducted a public hearing
on May 26, 2004.

Decision: The application is approved.



200407140125

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FINDINGS OF FACT

1. Keith Johnson (applicant) seeks the waiver of the development-moratorium imposed in connection with a non-conversion forest practice permit.
2. The proposed development will be located on Industrial Forest-Natural Resource Land (IF-NRL) at 18870 Quail Drive, within the NE1/4NW1/4 Sec. 10, T33N, R4E, W.M. The County parcel number is P16603. The location is on Scott Mountain just west of Lake 10, southeast of the City of Mount Vernon.
3. FPA #2804493 was issued to the applicant for timber harvest on the subject property on June 15, 2001. The issuance of permission for a non-conversion harvest imposed a development moratorium through June 15, 2007.
4. The applicant applied to have the moratorium lifted on February 27, 2004. The County deemed the application complete on March 24, 2004. Appropriate notice of the application and public hearing were given.
5. Under SCC 14.24.110(6) a moratorium may be waived if, based on a critical areas site assessment, the Hearing Examiner determines that recovery of the critical areas and associated buffers can be achieved within six years.
6. The subject property was visited by Staff and determined to include Geologically Hazardous Areas indicators. A Geotechnical Engineering Study was prepared by GeoTest Services, Inc. The study concluded, in effect, that the previous forest practice activity did not adversely affect any critical area.
7. The applicant wishes to apply for County permits to build a commercial communication tower and equipment building. The project will include an approximately 160-foot tall, three-legged self-supporting tower. The geotech report determined that the subsurface conditions (revealed by boring at the site) are suitable for support of the proposed tower and equipment building.
8. Since no adverse impact from the forest practice was identified, recovery of the critical area is not an issue.
9. The tower, if built, will be on top of a rocky ridge. Although the site itself is at least 1/2 mile south of the nearest home, the tower will be visible from residential areas. The tower is likely to have several facilities co-located on it. The antenna configuration on the tower has not yet been determined.
10. The equipment building will be a 20 and 40 foot, two-story structure. It will probably not require heat. No propane or other fuel trucks will need to access the site. The lines serving the facility will be underground. Maintenance visit will probably occur only once or



twice a month. No additional road work will be needed for access. The property is outside of a fire district.

11. Because the geography of the site is entirely rock, no increase in storm water runoff is anticipated. Erosion is not a likely consequence.

12. Two citizen comment letters were received. One from owners of nearby property objected to the proposed tower on the basis that it may lower the value of property in the area, impose health risks to people and wildlife, and create a fire safety and vandalism hazard. The other was from the Cascade Ridge Homeowner's Association, raising concerns about access, property values, aesthetics, and health effects. The Association asked that these issues be addressed now and not be deferred to the permit process.

13. The applicant's agents met with the Homeowner's Association and attempted to answer their concerns. It is not clear what, if any, issues the Association continues to have. No one spoke at the hearing on the Association's behalf.

14. However, a resident of the Cascade Ridge neighborhood did testify and provided one perspective on the several development proposals that have been put forward for the applicant's property. The underlying message was that increasing commercial activity on the subject site poses a threat to the quality of life in a quiet residential area.

15. 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 application.

2. The application meets the requirements for waiver of the six-year development moratorium. SCC 14.24.110(6). In the absence of an adverse impact to a critical area, no mitigation plan is needed.

3. The standards for waiver are limited in scope. They are concerned only with recovery of critical areas to a condition comparable to that before a forest practice took place. The issues raised by area residents here are beyond the narrow question to be addressed in connection with a waiver application and are thus outside the scope of this proceeding.

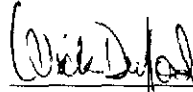
4. With the moratorium gone, the applicant must still apply for and obtain all permits for the land use activity he seeks to engage.

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



DECISION

The application is approved. The waiver is granted. The development moratorium is lifted.



Wick Dufford, Hearing Examiner

Date of Action: June 21, 2004

Copy Transmitted to Applicant: June 21, 2004

RECONSIDERATION/APPEAL

As provided in SCC 14.06.180, a request for reconsideration may be filed with the Planning and Permit Center 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 the Planning and Permit Center within 14 days after the date of the decision, or decision on reconsideration, if applicable.



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