

NOTICE OF DECISION
BEFORE THE SKAGIT COUNTY HEARING EXAMINER

Applicant: James Elder
22400 Cook Road
Sedro-Woolley, WA 98284

Request/File No: Critical Areas Variance, PL10-0063

Location: Sedro-West, Acres 0.39, a tract of land in the east 660 feet of the NW1/4SW1/4 Sec. 23, T35N, R4E, W.M. (Parcel #P37308)

Land Use Designation: Rural Reserve

Summary of Proposal: To replace an existing single-wide mobile home with a new double-wide manufactured home approximately 44 feet from the Ordinary High Water Mark of Brickyard Creek.

SEPA Compliance: Exempt

Public Hearing: May 26, 2010. No public testimony. Staff recommended approval.

Decision: Approved, subject to conditions.

Appeal: Request reconsideration within 10 days of this decision.
Appeal to County Commissioners within 14 days of this decision or decision on reconsideration, if applicable.

Online Text: See www.skagitcounty.net/hearing_examiner

FINDINGS OF FACT

1. James Elder seeks to replace an existing single-wide mobile home with a new double-wide manufactured home, at 22400 Cook Road near Sedro-Woolley.;

2. The property is a triangular lot which runs 177 feet along Cook Road and 276 feet along Brickyard Creek. The description is Sedro-West, Acres 0.39, a tract of land in the east 660 feet of the NW1/4SW1/4 Sec. 23, T35N, R4E, W.M. The property is zoned Rural Reserve.

3. Brickyard Creek runs along the hypotenuse of the triangle. It is a fish bearing stream (Type F - greater than 5 feet in width) for which the standard critical areas buffer is 150 feet. This buffer encompasses the entire property.

4. There is an existing mobile home on the lot which was placed there in the mid-1970's, long before the Critical Areas Ordinance was adopted. This original mobile home has become significantly run-down over time and replacement is necessary for habitability.

5. The proposal is to put the new mobile home (1,620 square feet) on essentially the same site as the old one. The result will be a setback of 44.7 feet from the Ordinary High Water Mark at the new home's closest approach to the stream. The existing mobile home (1,096 square feet) is 50 feet back from the stream.

6. The applicant seeks a variance under SCC 14.24.140 for placement of the home within the standard setback and buffer.

7. Given the dimensions and development of the site, there is no location for the new mobile home which would be farther from the stream. The site has been impacted over the years by the existing residence. The replacement proposed will not worsen the impacts. Rather, to the extent possible, the project will minimize impacts to the stream buffer.

8. A Fish and Wildlife Habitat Assessment (January 10, 2010), utilizing best available science, was prepared by Edison Engineering. The Assessment recommends a planting plan for mitigation of impacts to the buffer area.

9. The assessment and mitigation plan demonstrate that the proposed project allows for development of the parcel with the least impact on the critical area. It is the minimum variance possible that will allow for reasonable use of the land.

10. Placement of the new mobile home within the setback will effectively reduce the buffer width. Under SCC 14.24.540(3), such a reduction is allowed as long as the mitigation sequence of SCC 14.24.080 is followed.

11. In addition to the mobile home, the property contains a 936 square foot shop, a driveway and parking areas, two small dog kennels and a small play house. There are currently a number of large trees near the stream bank. The kennels and play house are presently in the

vegetated area by the stream. There is also an expanded gravel parking area in the north portion of the property near the stream.

12. The applicant will reduce impacts by placing the home as far as possible from the stream. Some of the areas impacted in the past adjacent to the stream will be restored. The dog kennels and play house will be moved out of the remaining buffer and the area will be enhanced with the planting of native vegetation. Further, the Staff recommends that the expanded gravel parking area in the north portion of the parcel be restored to native vegetation. PCA status will protect the remaining buffer in a natural state in perpetuity.

13. The proposal was routed to various County departments. No concerns were raised. The Health Department determined that the existing septic system is adequate to serve the replacement home.

14. A Letter of Completeness for this application was issued on March 15, 2010 and notice of the application was appropriately posted, published and mailed. Only one comment letter was received. Skagit Systems Cooperative expressed concerns about the uses within the remaining buffer area and suggested that they be removed. The permit conditions effectively provide a positive response to these comments.

15. The Staff Report analyses the application in light of the Code criteria for Critical Areas variances and for buffer width reduction. The Staff determines that, as conditioned, the proposal will be consistent with the criteria. The Examiner concurs with this analysis and adopts the same. The Staff Report is by this reference incorporated herein as though fully set forth.

16. 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 subject matter of this proceeding. SCC 14.06.050(1(b)(i) and 14.24.140(1)(b).

2. The proposal is exempt from the procedural requirements of the State Environmental Policy Act (SEPA).

3. The proposal, as conditioned, is consistent with the requirements for a Critical Areas Variance (SCC 14.24.140(3)(a-h) and with the requirements for Buffer Width Decreasing (SCC 14.24.540(3)). The mitigation sequence of SCC 14.24.080(5)(b) has been followed.

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

CONDITIONS

1. The project shall be completed consistent with the information presented in the application materials, except as the same may be modified by these conditions.

2. The project shall comply with the planting recommendations of the Fish and Wildlife Habitat Assessment prepared by Edison Engineering, dated January 14, 2010, and as shown on the Critical Area Site Plan.

3. The project shall follow the construction recommendations of the Fish and Wildlife Habitat Assessment. These include, but are not limited to the following:

- a. Silt fences shall be erected immediately down-gradient of all land disturbances and shall remain in place until site vegetation is reestablished.
- b. Disturbed areas of the construction site shall be re-vegetated using grass seed that is native to the Pacific Northwest.
- c. The dog kennels and play area shall be moved out of the trees and toward the western property line, as far as possible from the stream.

4. In addition to the other proposed enhancement areas, the expanded parking area on the northern portion of the lot shall be restored from gravel to native vegetation.

5. The applicant shall acquire all other required permits, including a building permit.

6. A Protected Critical Area (PCA) site plan consistent with the submitted Critical Area Site Plan shall be recorded with the County Auditor prior to approval of the building permit application.

7. The required mitigation shall be completed prior to final building permit inspection.

8. All mitigation shall be monitored for a period of five years from the date of final building permit inspection to assure at least 85% survival of plantings.

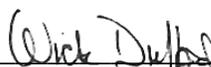
9. The variance shall expire if the project is not commenced within three years of final approval. Knowledge of the expiration date is the responsibility of the applicant.

10. Failure to comply with any permit condition may result in permit revocation.

DECISION

The application (PL10-0063) is approved, subject to the conditions set forth above.

DONE this 2nd day of June, 2010.



Wick Dufford, Hearing Examiner

Transmitted to Applicant on June 2, 2010

See page 1, Notice of Decision, for Reconsideration and Appeal information