

BEFORE THE SKAGIT COUNTY HEARING EXAMINER
FINDINGS, CONCLUSION AND DECISION

Applicant: Tammy Candler
3550 Upper Samish Road
Sedro-Woolley, WA 9284

File No: PL04-0900

Request: Waiver of Development Moratorium

Location: 3550 Upper Samish Road, within a portion of the
SE1/4NE1/4 Sec. 23, and S1/2NW1/4 Sec. 24, T36N,
R4E,W.M.

Land Use Designation: Rural Resource Natural Resource Land (RRc-NRL) and
Rural Reserve(RRv)

Summary of Proposal: To obtain a waiver of the six-year development moratorium
imposed on receipt of a non-conversion forest practice
permit. The waiver is sought in order to separate an eight
(8) acre parcel from 88 acres of land.

Public Hearing: After reviewing the report of Planning and Development
Services, the Hearing Examiner conducted a public hearing
on February 23, 2005.

Decision: The application is approved, subject to a condition.

FINDINGS OF FACT

1. Tammy Candler (applicant) seeks a waiver of the development moratorium affecting 88 acres of land. If the waiver is approved, she wishes to pursue a short subdivision to divide off an eight acre parcel.

2. The property consists of Parcels # P113863, P49783, and P49844. It is located at 3550 Upper Samish Road, within a portion of the SE1/4NE1/4 Sec. 23, and the S1/2NW1/4, Sec. 24, T36N, R4E, W.M.

3. The Candler family has owned the two contiguous 40-acre parcels (P49783 and P49844) for many years. An additional eight acre parcel (P113863) was obtained by the family in 1998 in resolution of a property dispute. Because the eight acres is also contiguous property, it was aggregated with the other 80 acres pursuant to the Code provisions then in effect.

4. The Candlers now wish to separate off the eight acres and sell it to their daughter so that she can build a home on it. The remaining 80 acres will be placed in an open space category.

5. On July 29, 2001, George Candler, Sr., was granted a non-conversion permit to log the two 40-acre parcels under Forest Practice Application (FPA) #2802854. This brought the entire contiguous ownership under the six-year development moratorium imposed by state law on lands harvested pursuant to non-conversion FPAs.

6. A March 2004 site assessment report by Skagit Wetlands and Critical Areas, Inc., delineates the location, type and extent of critical areas on-site. The report identifies two Type 4 streams and one Category III wetland. One of the streams has since been upgraded to a Type 3 stream.

7. The logging, where it occurred, did not disturb any County regulated critical areas or associated buffers. The reclassification of the one stream did not change this fact. No logging occurred on the eight-acre area.

8. Under the Critical Areas Ordinance (CAO), SCC 14.24.110(6)(e)(i-ii), the applicable criteria for lifting a moratorium are as follows:

- (i) A critical areas site assessment must be prepared. . . . The site assessment shall determine the level of impacts to County regulated critical areas and associated buffers that have occurred due to logging and associated conversion activity. The site assessment shall also include an estimated time needed for recovery of the critical area to a state comparable to what it was before the forest practice took place.

(ii) If, based on the prepared site assessment and comments received the . . . Hearing Examiner . . . determines that recovery of the critical area(s) and associated buffers can be achieved within six years, then a mitigation plan shall be prepared and implemented, consistent with the CAO and the waiver shall be lifted. . . .

9. Since no effects to any critical areas have occurred, there is no need for a mitigation plan for recovery of such areas. The critical areas on the site remain in a state comparable to their condition before the forest practice took place.

10. The CAO review conducted to date has only been with respect to the question of waiving the moratorium. Normal CAO review should take place in connection with the subdivision process.

11. Bob Whitefield of Skagit Wetlands testified in support of the waiver. He said that the logging practices where they occurred were excellent and that the replanting efforts make this a showcase forest management operation. He reiterated that no damage occurred to any critical area.

12. There was no public comment.

13. 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 proceeding. SCC 14.24.110(6).

2. The facts support a conclusion that the applicant has met the criteria for waiver of the six-year moratorium affecting parcels, P113863, P49783 and P49844.

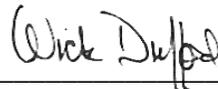
3. Compliance of any future land division or development on this property with the CAO will need to be evaluated in connection with the application for such future action.

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

DECISION

The requested waiver of moratorium request is approved, subject to the following condition:

Additional Critical Areas review, including but not limited to, additional review fees, site assessment requirements, mitigation measures and Protected Critical Areas requirements pursuant to Chapter 14.24 SCC may be required with future development applications on parcels reviewed under this application.



Wick Dufford, Hearing Examiner

Date of Action: March 10, 2005

Date Transmitted to Applicant: March 10, 2005

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.