

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

FINDINGS, CONCLUSIONS AND DECISION

Applicants: Clive Ware & Micaiah Johnson
18390 Osprey Court
Mount Vernon, WA 98274

File No: PL 05-0219

Request: Waiver of Development Moratorium

Location: Immediately northeast of the intersection of Walker Valley Road and State Route 9, within a portion of the SW1/4SW1/4 Sec. 36, T34N, R5E, W.M.

Land Use Designation: Rural Reserve, Rural Village Residential

Summary of Proposal: To obtain a waiver of the six-year development moratorium imposed when site clearing occurred without a forest practice application. The waiver is sought preliminary to seeking to subdivide the property.

Public Hearing: After reviewing the report of Planning and Development Services, the Hearing Examiner conducted a public hearing on June 22, 2005.

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

FINDINGS OF FACT

1. Clive Ware and Micaiah Johnson (applicants) seek a waiver of the development moratorium imposed by the County after timber harvesting occurred on their property without a forest practice application.
2. The moratorium was invoked effective March 29, 2005 and would last until March 29, 2011. Clearing was mistakenly undertaken after the applicants purchased the property as Big Lake Investments, LLC.
3. The application was deemed complete on April 26, 2005. A notice of the application was properly posted and published. Proper notice was given of the public hearing.
4. The property consists of approximately 10 acres located immediately northeast of the intersection of Walker Valley Road and State Route 9, within a portion of the SW1/4SW1/4 Sec. 36, T34N, R5E, W.M. The Parcel ID number is P30529. The zoning is Rural Reserve (east half) and Rural Village Residential (west half).
5. The property is roughly rectangular, being 330 feet north to south and 1320 feet east to west. The parcel slopes up from west to east. Big Lake is visible from the site.
6. Removal of the moratorium is sought in order to move forward with subdivision of the property into six lots.
7. The property was reviewed under the Critical Areas Ordinance (CAO) and the presence of wetlands was identified. A January 2005 site assessment report by Skagit Wetland and Critical Areas, Inc. delineated the location, type and extent of County regulated critical areas on the site. One Category III wetland was observed.
8. After review of the narrative provided by Skagit Wetland, the Staff concluded that the timber harvest which occurred did not take place within any regulated critical area, and that there were no impacts to any critical area or buffer. The Hearing Examiner so finds.
9. Under the CAO, the applicable criteria for lifting a moratorium are as follows (SCC 14.24.110(6)(e)):
 - (i) A critical areas site assessment must be prepared. . . . The site assessment shall determine the level of impact 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.

10. Because no effect to any critical areas or buffers has occurred, there is no need in this case for a mitigation plan for recovery. The critical areas remain in a state comparable to their condition before the forest practice took place.

11. There were no public comment letters. There was no public testimony at the hearing.

12. The Staff recommended approval of the application with the addition of a condition relating to the designation and recording of a Protected Critical Area.

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 applicants have met the criteria for waiver of the six-year development moratorium for the subject property.

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

DECISION

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

All wetlands and associated buffers shall be included in a Protected Critical Area (PCA) according to SCC 14.34.170 and the PCA shall be recorded with the County Auditor. The PCA may be completed in conjunction with approval of the proposed subdivision.

Wick Dufford
Wick Dufford, Hearing Examiner

Date of Action: July 11, 2005

Date Transmitted to Applicant: July 11, 2005

RECONSIDERATION/APPEAL

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