

## **BEFORE THE SKAGIT COUNTY HEARING EXAMINER**

### **FINDINGS, CONCLUSIONS AND DECISION**

**Applicant:** Don Finn, Finn Homes, Inc.  
17448 Samish Heights Road  
Bow, WA 98232

**File No:** PL05-0583

**Request:** Waiver of Development Moratorium

**Location:** 17448 Samish Heights, within a portion of NE1/4NW1/4  
Sec. 12, T35N, R3E, W.M.

**Land Use Designation:** Rural Reserve

**Summary of Proposal:** To obtain a waiver of the six-year development moratorium  
to allow the applicant to proceed with an application for  
land division and related permits and approvals.

**Public Hearing:** After reviewing the report of Planning and Development  
Services, the Hearing Examiner conducted a public hearing  
On October 26, 2005.

**Decision:** The application is approved, subject to conditions.

## **FINDINGS OF FACT**

1. Don Finn of Finn Homes, Inc. (applicant) seeks a waiver of the six-year development moratorium imposed by the County after the property owner, Ray Devries, received a forest practice permit and conducted a forest harvest. The moratorium was imposed on August 25, 2000.
2. The waiver application was deemed complete on August 29, 2005. A Notice of Application was properly posted and published on September 1, 2005. The public hearing was properly advertised.
3. The property consists of an approximately 20-acre area located at 17448 Samish Heights Road, within a portion of the NE1/4NW1/4 Sec. 12, T35N, R3E, W.M. The zoning is Rural Reserve (RRv).
4. The forest harvest was conducted about five years ago. The property is currently about 20 percent vegetated with mature canopy species and a dense shrub layer. The surrounding area is predominantly forested land. There are single-family homes on acreage across Samish Heights road and to the immediate west. A subdivision with developed houses is situated to the south.
5. Removal of the moratorium is sought in order to move forward with subdivision of the property.
6. The property was reviewed under the Skagit County Critical Areas Ordinance (CAO). A site assessment, dated August 19, 2005, was prepared by Aqua-Terr Systems, Inc. The assessment found one isolated small (500 square feet) wetland. The wetland was classified as Category III. Skagit County does not regulate Category III wetlands less than 2,500 square feet in size. In any event, the wetland was not disturbed during the logging operation.
7. After review of the information provided, the Staff determined that the timber harvest caused no impacts to any regulated critical areas or buffers. The Hearing Examiner so finds.
8. 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.

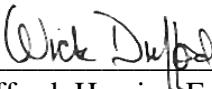
- (ii) If, based on the prepared site assessment and comments received the . . . Hearing Examiner . . . determines that recovery of the critical area(s) and associated buffers can be achieved within six years then a mitigation plan shall be prepared and implemented, consistent with the CAO, and the waiver shall be lifted.
9. Because no effect to any regulated critical area or buffer 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.
10. There were no public comment letters. There was no public testimony at the hearing.
11. The Staff recommended approval of the application.
12. 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 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.



---

Wick Dufford  
Hearing Examiner

Date of Action: November 29, 2005

Date Transmitted to Applicant: November 29, 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.