



KITSAP COUNTY DEPARTMENT OF COMMUNITY DEVELOPMENT

619 DIVISION STREET MS-36, PORT ORCHARD WASHINGTON 98366-4682
(360) 337-7181 FAX (360) 337-4925 HOME PAGE - www.kitsapgov.com/dcd/

Larry Keeton, DIRECTOR

STAFF REPORT and RECOMMENDATION TO THE HEARING EXAMINER

Date: January 14, 2008

Application Received: June 20, 2007

Project: Soukup Zoning Variance and Single Family Residence

Application Number: 07 45350

Type of Application: Zoning Setback Variance

Request:

The land use request is a Variance to the required setbacks of the Rural Residential Zone. This is needed to allow the property owner to build a Single Family Residence and garage on the only buildable location on the property. The site is 1.79 acres in size and zoned Rural Residential (RR). The proposal is to reduce the setback to the northern boundary (side) to 8 feet and the setback from the eastern boundary line (front) to 14 feet.

Project Location:

The subject property is located south of Cleveland Street and west of the intersection of Cleveland Street and Roosevelt Avenue in Gig Harbor. Blackjack Creek, a Type F stream, runs north to south along the western edge of the property.

Assessor's Accounts #: 4795-020-001-0107

Applicant and Owner of Record:

Mark Soukup
7817 Olympic View Drive
Gig Harbor, WA 98335

Project Engineer:

Zipper Zuman & Associates
2115 S. 56th St.
Tacoma, WA 98409

Project Representative:

Jim Soukup
7817 Olympic View Drive
Gig Harbor, WA 98335

State Environmental Policy Act (SEPA) Status:

Pursuant to the Washington Administrative Code (WAC) 197-11-800, the project is exempt from SEPA.

Physical Characteristics:

The subject property is located south of Cleveland Street and west of the intersection of Cleveland Street and Roosevelt Avenue in Gig Harbor. Blackjack Creek, a Type F stream, runs north to south along the western edge of the property. The construction site is approximately 340 feet above sea level from which point the land falls off rapidly to the west to the low point of approximately 270 feet, which is Blackjack Creek. It rises again to a high point of 295 feet in the southwest corner of the property. The site is considered to be in a Moderate Hazard Area and a Category One Critical Aquifer Recharge Area.

The site is zoned Rural Residential (RR) with a minimum 5 acre lot size. The site is currently undeveloped and heavily forested with mature cedar, fir, alder and maple trees, and an understory of ferns, sparse brush and weeds. Slopes on the site are anywhere from 20% to 71%.

Comprehensive Plan and Zoning Designation:

The subject property is designated and zoned Rural Residential (RR). This zone is intended to *“recognize rural areas that have been committed or developed for rural residential uses on smaller lots. These areas are provided with limited public services.”* The following are requirement for the RR zone:

Rural Residential – one dwelling unit per 5 acres

Setbacks

- Minimum setbacks = 50 feet front yard
- = 20 feet side yard (5 feet for accessory structures)
- = 20 feet rear yard (5 feet for accessory structures)

Surrounding Land Use and Zoning:

The surrounding area is rural and wooded in character. Most of the land is in rural residential and forestry uses. As the Rural Residential zone extends to the north and east the zoning changes to Rural Protected (minimum lot size is 10 acres), and to the west the zoning changes to Rural Wooded (one dwelling per 20 acres).

The subject parcel is zoned Rural Residential (1 dwelling unit per 5 acres). The surrounding contiguous zoning is also Rural Residential.

Public Utilities and Services:

- Water Public Utility District No. 1
- Power: Puget Sound Energy
- Sewer: On-site sewage system
- Police: Kitsap County Sheriff
- Fire: Fire Protection District No. 7
- Schools: Kitsap School District No. 402

Access and Traffic:

Access to the site is provided by SW Cleveland Street, a neighborhood road that intersects with Sidney Road SW. Sidney Road SW is classified by Kitsap County Public Works as a “Collector” road.

Policies and Regulations Applicable to the Subject Proposal:

Kitsap County Code

Stormwater Drainage, Title 12

Road Improvements, Title 11

Preliminary Plat, General Provisions, Title 16.04

Preliminary Plat, Title 16.12

Kitsap County Zoning Code, Title 17, (February 15, 1999)

- Section 110 Definitions
- Section 310 Rural Residential
- Section 385 Landscaping
- Section 400 Land Use Review
- Section 400.040 Appeals
- Section 500 Variances
- Section 435 Off-Street Parking and Loading
- Section 525 Revocations of Permits or Variances

Kitsap County Land Use and Development Procedures Title 21, (May 18, 1998)

Kitsap County Comprehensive Plan (December 11th, 2006)

Analysis:

The request for the variance to the front and side yard setback was reviewed for consistency with KCC Section 17.500 Variances, Section 19.400 Geologically Hazardous Areas, Section 17.410.020 and Site Plan Review.

The Kitsap County Zoning Code, Title 17, provides criteria for the review of this project. Section 17.500 lists the conditions for granting a variance by the Kitsap County Hearing Examiner. A variance shall be made only when all the following conditions and facts exists:

- A. There are special circumstances applicable to the subject property, including size, shape, topography, location or surroundings, that were not created by the applicant and do not apply generally to other property in the same vicinity or zone;

The applicant states that the required zoning 50-foot front yard setback and 20-foot side setback would deprive the use of this property due to the size, shape and topography.

The County's resources maps show that the 1.79-acre property is encumbered 60% or more by steep slopes 30% or greater. The steep topography and ravine limits the applicant's ability of constructing the house within the required setbacks for the Rural Residential zone.

- B. Such variance is necessary for the preservation and enjoyment of a substantial property right or use of the applicant possessed by the owners of other properties in the same vicinity or zone;

The proposed variance will have no affect or limitation on other properties. Land adjoining the property line has already been developed and all buildings are sufficiently far away to provide a level of privacy expected in this zone.

Staff agrees that the applicant should enjoy similar property rights of constructing a single-family home on the property similar to other property owners in the area. Properties on the north and south sides of Cleveland Street are developed with single family residences leading up to the subject property where it dead ends. Staff agrees the variance to front and side yard

setbacks should not impact the adjacent property owner.

- C. The authorization of such variance will not be materially detrimental to the public welfare or injurious to property in the vicinity or zone in which property is located; and

The critical area setback is driving the variance request. In order to protect both the slope and the single family residence, the building must maintain a minimum 65-foot setback from the top of slope.

The applicant has submitted a Geological Report that concludes that the property is buildable if recommendations are followed for slope setbacks for the development of the property [Exhibit-17]. Staff believes the proposed setback will not be detrimental to the public welfare or injurious to property owners in the vicinity.

- D. The variance is the minimum necessary to grant relief to the applicant.

The applicant believes that a variance is necessary to have any buildable area due to the slope setbacks and the area for the on-site sewage disposal system. This would be a minimum variance required to build on the property.

The combination of the 150 foot creek buffer, 25 foot native vegetation buffer at the top of the slope and a 15 foot building setback severely limit the ability of the applicant to develop the property, providing little buildable area. Granting the variance will reduce the front yard setback to approximately 14 feet and the side yard to 8 feet to utilize the only buildable site on the parcel.

Regulatory Agency Response

County Health District: A Pre-application Checklist dated April 2, 2007 stated the need for a Water Availability Letter and a Residential Building Site Application for On-site Sewage Disposal.

County Development Engineering: A Memorandum dated April 3, 2007 recommends approval, subject to conditions.

Public Input: Notice request from Charles R. Brandfas and Mary D. Miller

Findings:

Staff has reviewed the application against the requirements in the Kitsap County Code and found the project consistent. The following are findings for the Soukup Variance request:

1. The proposed development/use is one permitted within the subject zoning designations and complies with all of the applicable provisions of this Ordinance and all other applicable regulations, including prescribed development/performance standards and all applicable development standards and design guidelines.
2. The proposed development would be harmonious and compatible with existing and future developments within the land use designation and general area.
3. The subject site is physically suitable for the type, density and intensity of the use being proposed.

4. Appropriate provisions have been made for the public health, safety and general welfare for open spaces, drainage ways, streets or roads, alleys and other public right-of-ways, transit stops, potable water supply, sanitary waste, parks and recreation, playgrounds, schools and all other relevant facts, including: sidewalks or other planning features that ensure safe walking conditions for students who walk to and from school.
5. The location, size, design and operating characteristics of the proposed development/use would not be detrimental to the public interest, health, safety, or welfare of the County.

Recommendation:

Based upon the above findings, it is recommended that the variance request for the Soukup Variance application be **approved**, subject to the following conditions:

Final Approval is subject to review of the following elements of Preliminary Site plan Approval, to include the following conditions:

1. All required permits should be obtained prior to commencement of land clearing and/or construction.
2. Meet all recommendations of the May 25, 2007 Geotechnical Reports prepared by Zipper Zeman Associates, Inc. These recommendations include, but are not limited to construction setbacks from slope, buffer requirements and drainage control.
3. Any variance approval shall be valid for up to three years during which time a building permit meeting all requirements and conditions of approval shall be made.

All Applicable Kitsap County Health District regulations shall be adhered to, including the following:

4. The Health District issued a Building Site Application for On-Site Sewage Disposal.

The requirements of Development Engineering and Kitsap County Public Works shall be met, including the following:

5. Development Engineering has reviewed the above land use proposal and finds the concept supportable in its approach to civil site development. A site evaluation was conducted on March 22, 2007 upon which these comments are based.

Development Engineering accepts the concepts contained in this preliminary submittal and requires the following conditions as an element of the land use approval:

STORMWATER

6. This project is located within a Critical Drainage area as defined in Title 12.28.020 of the Kitsap County Code. Therefore, Development Engineering will require a Site Development Activity Permit (SDAP) prior to construction activities. SDAPs shall be prepared by a Civil Engineer licensed in the State of Washington. The guidelines for submitting a SDAP can be found in Chapter 2 of the Kitsap County Stormwater Design Manual.

7. Following land use approval, a Site Development Activity Permit (SDAP) will be required prior to construction activities. The guidelines for submitting a SDAP can be found in Chapter 2 of the Kitsap County Stormwater Design Manual.

SURVEY

8. Provide a Category 3 covenant regarding use and maintenance of Kitsap County right of way.

TRAFFIC/ROADS

9. Submit a Site Plan to scale showing the following:
 - a. All existing and proposed approaches
 - b. Widths of adjoining right-of-way.
 - c. Location of all adjoining road surfaces and edge of maintenance line in relationship to the existing right-of-way.
 - d. All adjoining subdivisions.
10. At time of building permit submit an Application for Concurrency Test (TCPW Form 1601) as required by Chapter 20.04, Transportation Concurrency, of the Kitsap County Code. The KCPW 1601 form is how you reserve road capacity for your project.
11. Submit a Road Approach Permit Application and plans for construction of road approach between the edge of existing pavement and the right-of-way line at all intersections with county rights-of-way. Approaches shall be designed in accordance with the Kitsap County Road Standards as established in Chapter 11.22 of the Kitsap County Code. Please denote the design vehicle on the plan set. Existing approaches may need to be improved to meet current standards.
12. Any work within the County right-of-way will require a permit to perform work on County right-of-way and possibly a maintenance or performance bond. This application must be submitted as part of the SDAP process (or building permit if no SDAP is required). The need for and scope of bonding will be determined at that time.

SOLID WASTE

13. Contact the solid waste service provider Waste Management @ (360)674-3166 for information on implementing the solid waste/recycling storage requirements influenced by the service provider for the project.

OTHER

14. For information and assistance in preparing permits required by agencies other than Kitsap County contract the Washington State Office of Regulatory Assistance:
Email: assistance@ora.wa.gov
Phone: (800) 917-0043; (360) 407-7037
Website: <http://www.ecy.wa.gov/programs/sea/pac/index.html>
15. If more than 12 months have transpired between the date of this notice and the submission of any documents, please check with us to ensure that the codes have not changed in a manner that would require different information.

16. Please contact us for any specifics regarding the required preliminary submittal documents at (360)337-4544.

Cc: Owner/applicant: Mark Soukup, 7817 Olympic View Drive, Gig Harbor, WA 98335
Applicant's Representative: Jim Soukup, 7817 Olympic View Drive, Gig Harbor, WA 98335

Interested Parties

Bremerton-Kitsap County Health District, Tim Quayle, MS-30

Clerk of the Hearing Examiner

Kitsap County Building Official

Kitsap County Department of Community Development, Dennis Oost, MS 36

DCD Code Enforcement

Clerk of the Hearing Examiner

DCD File