



KITSAP COUNTY DEPARTMENT OF COMMUNITY DEVELOPMENT

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Larry Keeton, DIRECTOR

STAFF REPORT And RECOMMENDATION TO THE HEARING EXAMINER

Report Date: March 15, 2008

Application Complete Date: Sept 5, 2007

Hearing Date: March 13, 2008

Project: DANUBIO CRITICAL AREA VARIANCE

LIS Number: 07 47709

Type of Application and Proposed Project:

The applicant is requesting a Critical Area Variance (CVAR) pursuant to Kitsap County Code (KCC) Title 19 (Critical Areas), Section 19.300.315.A in order to allow the replacement of an existing small cabin with a single-family residence with a 1,875 square foot footprint on a 0.48 acre parcel. The proposal is located at 1793 Miracle Mile Drive SE, Manchester. Due to geological constraints on the property, the applicant is requesting a variance to reduce the critical area shoreline buffer from 35 feet to approximately 20 feet to accommodate the residential structure.

Project Location:

The property is located at 1793 Miracle Mile Drive SE, Manchester, South Kitsap County; Commissioner District #2.

Assessor's Account #: 4516-001-012-0003

Applicant and Owner of Record:

Scott Danubio
2244 Miller Bay 8179 E. Crickett Lane
Port Orchard, WA 98366

Project Representative:

NL Olson and Associates, Inc
P.O. Box 637
Port Orchard, WA 98366

State Environmental Policy Act (SEPA) Status:

Pursuant to WAC 197-11-800(1), the proposal is exempt from SEPA requirements.

Physical Characteristics:

The 0.48 acre parcel is located on the east side of Miracle Mile Drive SE, on the shoreward-parcel of the residence located at 1797 Miracle Drive SE. The property is located on the east shore of Yukon Harbor, and has an existing wood seawall bulkhead establishing the ordinary high water line. The subject parcel is generally very steep from the western boundary, approximately 60 ft down to a flat bench where the existing two-story cabin is located. The sloping portion of the parcel is vegetated with low-lying brush, native plants and native trees. The trees have been pruned and thinned for view enhancement of the upslope residence. The area around the existing cabin is primarily lawn grass.

Comprehensive Plan Designation and Existing Zoning:

The project area is zoned Manchester Village Low Residential (MVLRL).

Shoreline Environment Designation:

Under the Kitsap County Shoreline Management Master Program (SMP) the shoreline environment designation is Semi-Rural.

Surrounding Land Use and Zoning:

The properties in the surrounding area are zoned Manchester Village Low Residential (MVLRL). The parcels in the area are developed with single-family residences and armored shorelines, including the adjoining parcels.

Public Utilities and Public Services:

Water:Manchester water District
Power: Puget Sound Energy
Sewer: Kitsap County Department of Public Works

Policies and Regulations Applicable to the Subject Proposal:

Kitsap County Code
Title 19 Critical Areas
Title 21 Land Use and Development Procedures
Title 22 Shoreline Management Master Program

Documents Consulted in the Analysis:

Applicant submittals:

<u>Document</u>	<u>Exhibit #</u>	<u>Dated or date stamped</u>
Hearing Examiner Variance Application	11	Jan 05, 2007
BSA Plan from Building Permit Application	6	Jun 12, 2007
Prelim. Geotechnical Engineering Report	7	April, 2007
Geotechnical Engineering Report	25	Jan 25, 2008

Other Relevant Documents:

<u>Document</u>	<u>Exhibit #</u>	<u>Dated or date stamped</u>
KCDCD Properties Serviced Sewer	1	Mar 2, 2007
KCHD water availability memo	5	Feb 28, 2007
Kitsap County Health District Memo	19	Oct 18, 2007

Public and agency comments:

No comments at this time.

Analysis:

Following is an analysis of regulations applicable to the variance. Code citations are in italics, with staff comments following.

KCC Title 19 Critical Areas; Section 19.100.135 Variances

A. A variance in the application of the regulations or standards of this Ordinance to a particular piece of property or a variance to the use prohibitions of this Ordinance may be granted by Kitsap County when it can be shown that the application meets all of the following criteria:

1. Because of special circumstances applicable to the subject property, including size, shape, or topography, the strict application of this Ordinance is found to deprive subject property of rights and privileges enjoyed by other properties in the vicinity; provided, however, the fact that those surrounding properties have been developed under regulations in force prior to the adoption of this ordinance shall not be the sole basis for granting of a variance.

Staff Comment: Due to the age, condition, small size of the existing cabin and the constraints of the property from the steep slopes to the west, the strict application of the 35-foot shoreline buffer required by the development standards at KCC 19.300.315.A, would deprive the applicant of rights and privileges enjoyed by other properties in the vicinity. Other properties in the project vicinity are developed with single-family residences of moderate to large size. The applicant is proposing a main floor footprint of 1,875 square feet, which is within the size range for the adjoining residences.

2. The special circumstances referred to in Item No.1 above are not the result of the actions of the current or previous owner.

Staff Comment: Kitsap County Assessor records indicate the cabin was built in the early 1940's. Recent landslide activity damaged a portion of the cabin, knocking it off of the foundation. The applicant has a vested building application with the 2005 shoreline setback of 35 ft plus a 15 ft building setback line. This shoreline setback was first applicable in 1999 under Kitsap County's "Interim Regulations for Threatened Salmon Species". The 35-foot shoreline buffer was formally adopted into KCC Title 19 in December 2005 during the Critical Areas Ordinance update process. As the lot was

created well in advance of said regulations, the special circumstances referred to in item No. 1 were not the result of actions by the current or previous owner.

3. The granting of the variance will not result in substantial detrimental impacts to the critical area, public welfare or be injurious to the property or improvements in the vicinity and area in which the property is situated or be contrary to the goals, policies and purpose of this Ordinance.

Staff Comment: Any development within the shoreline buffer has the potential to adversely impact the shoreline habitat and receiving waters of the adjacent bay. The proposed use, however, will not result in substantial detrimental impacts to the functions and values of the shoreline critical area. Due to the open, grassy nature of the building footprint, the proposed buffer reduction will not require removal of substantial native vegetation within the buffer area adjacent to the shoreline. It is staff's opinion that the applicant has addressed impact avoidance and minimization by proposing a reasonable house footprint suited to the parcel's constraints and the scale with the surrounding community. The applicant will not be armoring or otherwise developing the shoreline critical area beyond necessary shoreline access.

4. The granting of the variance is the minimum necessary to accommodate the permitted use.

Staff Comment: The proposal is for a 1.875 square foot footprint for the main floor, inside of a building envelope limited by applicable zoning and shoreline setbacks, excluding the view protection line. The proposed footprint includes the main structure, in addition to deck and carport areas. The proposed buffer encroachment is the minimum necessary to enjoy the lot for the permitted use of single-family development, while maintaining a shoreline view similar to that of residences in the vicinity.

5. No other practicable or reasonable alternative exists.

Staff Comment: It is staff's opinion that practicable alternatives are limited to no action or reduction of the structural footprint to completely avoid the critical area and its buffer. The subject parcel is that of an existing developed lot, and the applicant is proposing a shoreline setback equivalent to that of the adjacent homes. A greatly reduced building footprint would not be reasonable, due to the fact that the adjoining homes would extend further waterward, leaving a narrow area of low upland habitat value on the subject parcel. Such reduction would also not be practicable, given the geotechnical constraints of the property.

6. A mitigation plan (where required) has been submitted and is approved for the proposed use of the critical area.

Staff Comment: Although a mitigation plan has not been required by staff in this circumstance, the applicant has expressed a desire to install water-wise native plantings to improve the lawn-dominant landscaping around the proposed residence. The shoreline will

be retained in its natural condition with the exception of the wood bulkhead and beach access.

Findings:

1. The Hearing Examiner has review authority for Variance applications under the KCC, Sections 19.100.130, 21.04.030 and 22.08.040.
2. Staff has determined that the applicant meets the six criteria as outlined in KCC, Section 19.100.135 and detailed above under conditions for granting a variance. All six need to be met in order for staff to recommend approval to the Hearing Examiner.

Based upon the above findings, staff recommends **APPROVAL** of the Danubio Critical Area Variance, subject to the following conditions:

1. Site development shall comply with the site plans submitted for the single-family residential building permit (Exhibit 6). The main floor shall not exceed the 1,875 square foot building footprint proposed on the building plans.
2. The variance for critical area shoreline buffer reduction shall be allowed provided that development of the single-family residence will not require additional shoreline armoring. The shoreline shall remain in its natural condition, with the exception of the existing wood bulkhead.

cc: Applicant: Scott Danubio, 8179 E. Crickett Lane, Port Orchard, WA 98366
Representative: NL Olson and Associates, Inc.,
P.O. Box 637, Port Orchard, WA 98366
Interested Party:
Kitsap County Health District, MS-30
Kitsap County Development Engineering
DCD Staff Planner Steve Heacock
Clerk of Hearing Examiner
DCD File
DCD Building Permit File No. 07 47709