



KITSAP COUNTY DEPARTMENT OF COMMUNITY DEVELOPMENT

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STAFF REPORT and RECOMMENDATION TO THE HEARING EXAMINER

Report Date: June 25, 2009

Application Complete Date: March 02, 2009

Hearing Date: July 09, 2009

Project: New Life Church Critical Areas Variance

Project Summary:

The Department of Community Development is recommending approval of the applicant's request for a critical areas variance from the 150 foot stream buffer (with a 15 ft building setback). The applicant requests a variance from the requirements of a 150-foot native vegetation buffer and 15-foot building setback under the Kitsap County Critical Areas Code, Title 19. The request is for a buffer reduction of approximately 50 percent, to a minimum setback at one point of 61 feet to approve the use of the existing salmon viewing platform, buildings and yard area for the proposed business offices. The 150-foot buffer for Strawberry Creek is not adversely impacted by the proposal. The stream buffer will average over 75 ft, and ranges from 61 feet to 120 feet. A Habitat Management Plan has been submitted with the application and will compensate for the minor encroachment into the 75 foot base buffer by creating a habitat hedge using a variety of native plantings. Implementation of the HMP, in conjunction with the native trees and shrubs in the existing buffer area, an establishing of a split rail fence will offset the existing buffer encroachment. Monitoring of planting success will take place for a period of 3 years.

The commercial use will comply with the required zoning setbacks of 20 foot front yard and 10 foot side yard setbacks. An Administrative Conditional Use Permit Land Use application has been reviewed by staff and is approved pending the outcome of the Critical Area Variance. The property is to be served by public sewer and public water. The 1.18 acre parcel is zoned Mixed Use (MU) and is located at 10125 Frontier Place NW, Silverdale, Central Kitsap County.

Application Number: 09 66321

Type of Application: Hearing Examiner Critical Areas Variance

Request:

The applicant requests a variance from the requirements of a 150-foot native vegetation buffer and 15-foot building setback surrounding a delineated Type-F stream, under the Kitsap County Critical Areas Code, Title 19. The request is for a buffer reduction of approximately 50% in area, to a minimum setback of 61 feet to allow for the footprint location of an existing salmon viewing platform and commercial office buildings.

Project Location:

10125 Frontier Place NW
Silverdale, Washington
Central Kitsap County

Assessor's Account #:

172501-3-017-2002 & 172501-3-077-2009

Applicant:

JEFF DAVIS
PO BOX 3943
SILVERDALE, WA 98383

Representative:

JEFF COOMBE
9361 BAYSHORE DRIVE NE
SILVERDALE, WA 98383

State Environmental Policy Act (SEPA) Status:

Pursuant to WAC 197-11-800(6)(b), this proposal is SEPA exempt.

Physical Characteristics:

The parcel is 1.18 acres in size and has been used as a single family residence for many years. The property is generally rectangular in shape with the developed portion located adjacent to Frontier Place. The developed portion of the parcel is primarily vegetated with grass lawn, gravel parking area, and outbuildings. The undeveloped portion contains a Type F stream, located on the west portion of the parcel. Strawberry Creek flows from north to south through a well-vegetated Douglas fir-dominant forest, and exits the parcel to the south.

Comprehensive Plan Designation and Zoning:

The Comprehensive Plan and Zoning designation is Mixed Use Commercial (MU).

Surrounding Land Use and Zoning:

Properties abutting to the north, south and west are zoned Mixed Use (MU). Properties to the east are zoned as Public Facilities, and are educational facilities.

Public Utilities and Services:

Water: Silverdale Water
Power: Puget Sound Energy
Sewer: Kitsap County Sewer

Access:

Access to the site is from an existing driveway located on Frontier Place.

Policies and Regulations Applicable to the Subject Proposal:

*Kitsap County Code:
Title 19, Critical Areas*

Documents Consulted in the Analysis:

Applicant submittals:

<u>Document</u>	<u>Exhibit #</u>	<u>Dated or date stamped</u>
Hearing Examiner Variance Application	2	February 20, 2009
Site Plan from Engineer (MAP)	4	February 20, 2009

Habitat Management Plan	1	February 20, 2009
Kitsap Health District Memo	8	March 20, 2009
SEPA Checklist	3	February 20, 2009

Public comments:

There are no public comments at the time of this writing.

Analysis:

The 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 existing developed area for this Mixed-Use zoned parcel, constraints of the property from the critical areas and associated buffers to the west, and the strict application of the 150 foot stream 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 Commercial facilities of moderate to large size, with similar, if not closer stream setbacks. Similarly, due to the proximity of the stream to the west, the strict application of the 150 foot stream buffer would deprive the applicant from developing this property for the intended zoned use. The applicant is proposing a building footprint with the average setback of 75 feet from the edge of the stream, with a minimum setback of 61 feet. This proposed footprint is within setback limitations of similar commercial properties in the area.

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: Environmental constraints on the parcel at the time of the existing building development did not create the special circumstances referred to in Item No. 1, and were not the result of actions by the current or previous owner. The constructed concrete view platform is located within the existing yard area of the previous residence.

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 stream buffer has the potential to adversely impact the habitat and receiving waters of Strawberry Creek. The proposed commercial use, however, will not result in substantial detrimental impacts to the functions and values of the critical area. Due to the existing building footprint areas, and the location of the view platform in the area of the existing residential yard, the proposed buffer reduction will not require removal of native vegetation within the stream buffer area. It is staff's opinion that the applicant has addressed impact avoidance and minimization by proposing a reasonable commercial footprint suited to the parcel's constraints and the scale with the surrounding community. The applicant will not construct additional hardened surfaces, nor otherwise develop the stream critical area beyond the necessary ingress/egress access for the commercial development.

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

Staff Comment: The applicant requests a variance from the requirements of a 150-foot native vegetation buffer and 15-foot building setback surrounding a F-Type stream, under the Kitsap County Critical Areas Code, Title 19. The request is for a buffer reduction of approximately 50% in area, to a minimum setback of 61 feet to allow for the existing view platform footprint location for the commercial project. Staff have taken into account the fact that the built structure occurs within the existing yard area, will provide seasonal salmon viewing opportunities, and that buffer enhancements will offset the existing intrusion into the buffer.

5. *No other practicable or reasonable alternative exists.*

Staff Comment: It is staff's opinion that practicable alternatives are limited to no action, as any proposed footprint would encroach into the critical area and its buffer. The subject parcel is that of an existing developed lot, and the applicant is proposing a stream setback equivalent to that of the adjacent commercial properties.

6. *A mitigation plan has been submitted and is approved for the proposed use of the critical area buffer.*

Staff Comment: A mitigation plan has been required by staff, and the applicant has submitted a Habitat Management Plan to improve the lawn-dominant landscaping around the proposed commercial facility. Wetland buffer replanting will occur as part of a comprehensive mitigation plan for the entire stream corridor area.

Findings:

1. The Hearing Examiner has review authority for variance applications under the KCC, Sections 19.100.130, and 21.04.030.
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 New Life Church Critical Area Variance, subject to the following conditions:

1. Future site development shall comply with the stream setback and building footprint submitted for the variance (Exhibit 4).
2. The proposal will be conditioned for completion of the Habitat Management Plan created by BGE Environmental, LLC, prior to issuance of final occupancy.

3. Any variance approval shall become void if no land use submittal for the proposed commercial use is accepted as complete by the Department of Community Development, within three years of the date of the Hearing Examiner's decision.
4. A Notice of Buffer to Title must be recorded with the Auditors Office, designating the stream buffer mitigation area and buffers as protected critical areas.

cc: Applicant:
Interested parties:
Kitsap County Health District, MS-30
Steve Heacock, DCD Staff Planner
Clerk of Hearing Examiner
DCD File