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BOOK 199 PAGE 612

Return Address: Rick Burke
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FILED
STAFF
BY Rick Burke
MAY 30 11 47 AM '00
GARY H. OLSON

**Skamania County
Department of Planning and
Community Development**

Skamania County Courthouse Annex
Post Office Box 790
Stevenson, Washington 98648
509 427-9458 FAX 509 427-4839

Critical Areas Variance Administrative Decision

APPLICANT: Rick Burke for Gene Burke

GRANTEE: Skamania County

FILE NO.: CA-99-11

DESCRIPTION: Request to reduce the Critical Areas setback of 100 feet from Carson Creek to 55 feet for construction of a home site.

LOCATION: Carson Depot Road off of Wind River Highway, Carson, SE ¼ of the NE ¼ of Section 29, T3N, R8E; Lot 1 of the Burke Short Plat, Book 3, Page 280. See attached Legal Description on Page # n/a.

TAX LOT: # 3-8-29-41-901.

ZONING: High Density Residential (HDR)

DECISION: Based upon the entire record before the Director, including particularly the Staff Report, the application by Rick Burke,

Prepared ☒
Reviewed ☒
Indirect ☒
Signed ☒
Filed ☒

described above, subject to the conditions set forth in this Decision, is found to be consistent with Title 22 SCC and is hereby approved.

Although the proposed development is approved, it may not be buildable due to inadequate soils for septic and/or lack of potable water. These issues are under the jurisdiction of Skamania County's Building Department and the Washington State Health District.

Approval of this request does not exempt the applicant or successors in interest from compliance with all other applicable local, state, and federal laws.

February 17, 2000

Dear Mr. Burke:

Section 21A.04.020(C)(3) of the County's Critical Areas Ordinance establishes an administrative variance procedure for requests that reduce setbacks no more than 50%. Your request to reduce the 100 foot setback established for Carson Creek to no less than 55 feet to place a house on the property, falls within the administrative review process.

The Planning Department has reviewed your Variance request for a reduction from the 100 foot setback established for Carson Creek. Based on the criteria in the County's Critical Area Ordinance and the County's Zoning Ordinance set out below, the following decision has been made.

DECISION:

THE VARIANCE REQUEST TO REDUCE THE 100 FOOT SETBACK ESTABLISHED FOR CARSON CREEK TO NO LESS THAN 55 FEET FOR PLACEMENT OF A HOUSE IS HEREBY APPROVED BASED ON THE FOLLOWING FINDINGS OF FACT.

Applicable review criteria from County Code:

§21.16.060(B) *[A]ny variance granted . . . shall not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the subject property is situated,*

§21.16.060(B)(1) *Because of special circumstances applicable to [the] subject property, including size, shape, topography, location or surroundings, the strict application of the zoning ordinance is found to deprive subject property of rights and privileges enjoyed*

by other properties in the vicinity and under identical zone classification and/or special purpose district;

§21.16.060(B)(2) *That the granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone classification and/or special purpose district in which subject property is situated;*

In addition to the criteria set out in Section 21.16.060(B), any applicant for a variance under this Chapter must further show:

- a. *that no practicable alternative exists to locating the proposed development within a stream, creek or buffer area;*
- b. *that on-site mitigation measures agreed to by the applicant are adequate to avoid significant degradation of the pond, lake or creek.*

This lot, like all lots in the High Density Residential (HDR) zone is entitled to at least one single-family residence. The applicants are merely asking to reduce the 100 foot buffer to 55 feet in order to be able to construct a home on the subject lot. This approval should not result in a special privilege.

The lot's size and shape do seem to have special circumstances that would require a variance, including the lot's topography, location and surroundings. As the applicant's site plan narrative shows, the lot at its widest is 228 feet. However, that widest point is directly adjacent to the natural gas line and within the 75 foot easement for that gas line. Also, part of the property is encompassed by the eastern half of Carson Depot Road of which the setback requirements are 45 feet from the centerline or 15 feet from the front lot line whichever is greater. In addition to all of the above circumstances a very steep, unbuildable slope exists on the eastern portion of the lot sloping down to Carson Creek which is the eastern property boundary of the subject parcel. Based on all of the above circumstances, the applicant would be deprived of his/her rights to enjoy the property in the same manner as other property owners with similarly zoned property, if a variance was not granted.

Furthermore, based on the above stated 100 foot buffer and special circumstances on the subject property, there is no practicable alternative to locating the proposed residence outside of the 100 foot buffer even if a road setback variance was granted. Conditions requiring that the 55 feet remain undisturbed and that all grading activity include only that which needs to be conducted for the home site and requiring graded areas to be re-seeded with native vegetation should be sufficient. In addition requiring appropriate permits from all other public agencies including, specifically, WDFW for the discharge into Carson Creek and periodic inspections by the Planning Department should be appropriate mitigation measures.

Staff completed a site visit on January 3, 2000 and January 28, 2000 and the 55 foot buffer is the **maximum** buffer possible while still allowing a house to reasonably be placed on the property. The property is zoned for residential purposes, therefore, a residence should feasibly be allowed to be built even if the 100 buffer cannot be met.

The granting of this variance should not be detrimental to the public welfare or injurious to the property or improvements in the area with appropriate conditions as follows:

1. Vegetation removal shall be limited to that which is needed for house development. All grading conducted for the preparation of the house site and all related development (i.e. septic, culvert, etc.) shall not be sidecast towards Carson Creek but shall be removed from the site or used to backfill around the approved home site and related development.
2. No development or land disturbing activities shall occur within 55 feet of Carson Creek with the exception of the grading/ditching to be completed in conjunction with the HPA and culvert installation.
3. All graded areas shall be re-seeded with native vegetation prior to a final inspection being completed for the proposed home.
4. All other appropriate permits shall be obtained from public agencies.
5. In addition to # 4 above, prior to the issuance of any building or placement permits for the residence an HPA shall be required based on the realignment of the culvert and discharge into Carson Creek. Contact the Department of Fish and Wildlife regarding the HPA requirements.
6. Prior to an excavation inspection being completed by the Building Department, the applicant shall notify the Planning Staff and staff shall conduct a site visit to determine compliance with Conditions # 1 and 2, above.
7. Prior to a final inspection being completed by the Building Department, the applicant shall notify the Planning Staff and staff shall conduct a site visit to determine compliance with Condition # 3, above.
8. Prior to recording this Decision at the County Auditor's office, the applicant shall obtain a legible copy of the legal description for Lot 1 of the Burke Short Plat with one inch margins on all sides and attach it to this decision.

9. Prior to the issuance of any building permits on the subject lot, the applicant shall record this decision at the County Auditor's office.

If you disagree with this administrative decision you may appeal this decision to the Skamania County Board of Adjustment. If you have any further questions regarding this decision please feel free to call the Planning Department at (509) 427-9458.

Sincerely,

Kari R. Fagermess

Kari R. Fagermess
Planner

APPEALS

This Administrative Decision shall be final unless reversed or modified on appeal. A written Notice of Appeal may be filed by an interested person within 20 days from the date hereof. Appeal may be made to the Skamania County Board of Adjustment, P.O. Box 790, Stevenson, WA 98648, on or before 3/8/00. Notice of Appeal forms are available at the Department Office.

cc: Property owners within 300 feet of the parcel
Other interested parties
Steve Manlow, WDFW

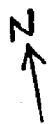
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TAX LOT: 3-8-29-4-1-901

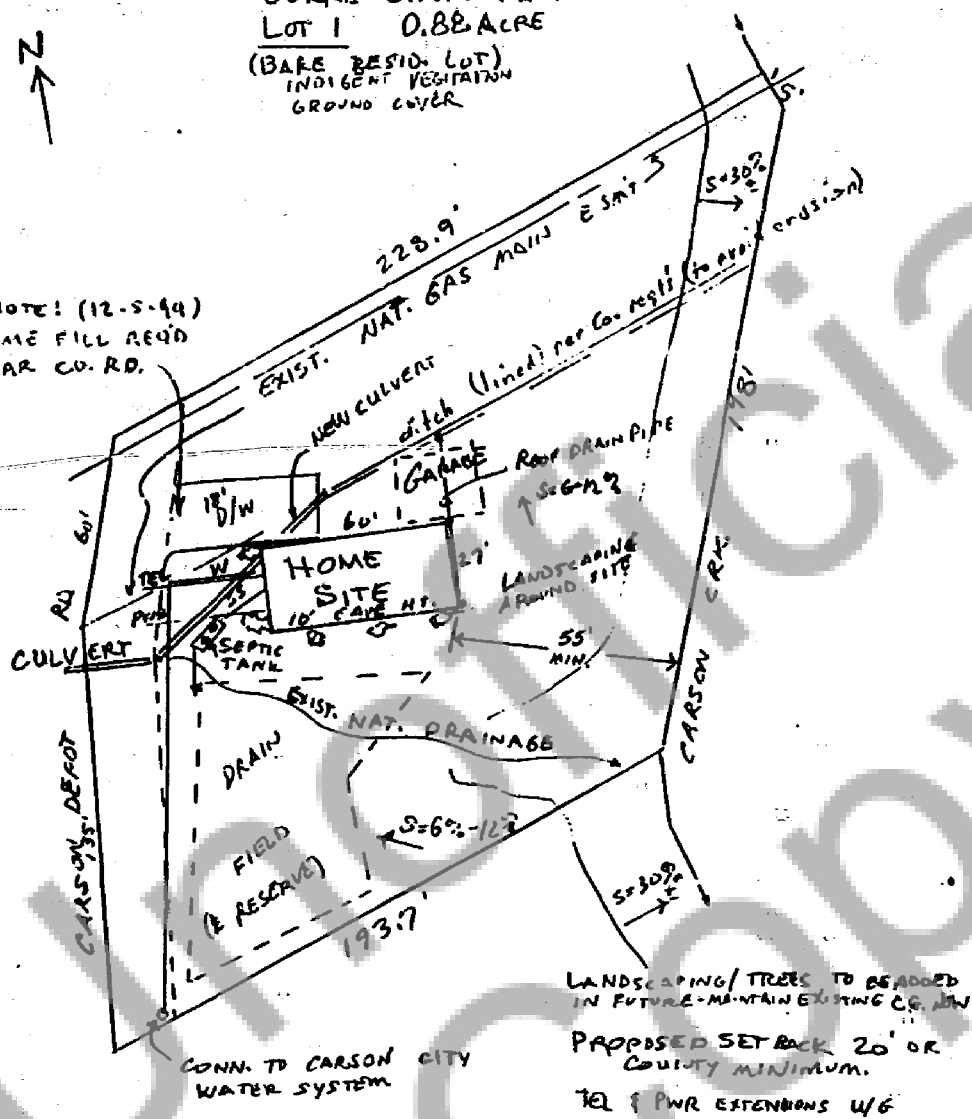
SITE PLAN: (REVISED 12-5-99)
NOTE ADDED

Scale: 1 inch = 50 feet

BURKE SHORT PLAT
LOT 1 0.88 ACRE
(BAKE RESID. LOT)
INDIGENT VEGETATION
GROUND COVER



NOTE: (12-5-99)
SOME FILL REQ'D
NEAR CO. RD.



LANDSCAPING/TREES TO BE ADDED
IN FUTURE - MAINTAIN EXISTING CO. RD.
PROPOSED SETBACK 20' OR
COUNTY MINIMUM.
TEL & PWR EXTENSIONS W/6

I will be moving more than 100 cubic yards of soil: yes ☐ no ☒
Additional pages must have 1" margins Site plan must be completed in ink.

LEGAL DESCRIPTION: LOT 1 OF BURKE SHORT PLAT RECORDED 12-19-95
IN BOOK 3, PAGE 280 (AUDITOR'S NO: 124065)