

142711

Return Address: Malcolm and Ruth Moreno
12550 Moreno Drive
Gaston, OR 97119

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FILED
SKAMANIA COUNTY
BY *Michelle Bires*

OCT 25 12 29 PM '01

Larry
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 Administrative Variance CA-99-06

APPLICANT: Pam Almond for Malcolm and Ruth Moreno

FILE NO.: CA-99-06

PROJECT: Critical Areas Variance Request reducing the 100 foot buffer from Canyon Creek to 50 feet for development of a single-family residence

LOCATION: Canyon Creek Road off of Salmon Falls Road, in Washougal; Section 5 of T1N, R5E, W.M., and identified as Skamania County Tax Lot # 1-5-5-1000. *Legal Description on Page 6*

ZONING: Residential (R-5) and Forest/Agriculture (FA20)

Reviewed ☒
Indexed ☒
Filed ☒
Ret. ☒

Dear Applicant:

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 Canyon Creek to no less than 50 feet falls within the administrative review process.

The Planning Department has reviewed your Variance request for a reduction from the 100 foot setback established for Canyon Creek to a setback no less than 50 feet. 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 CANYON CREEK TO NO LESS THAN 50 FEET 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;*
- §21.16.050(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 pond, lake 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 R-5 zone (a major portion of the parcel, west of Canyon Creek is zoned FORAG (20) however, the residence is proposed in the residential area of the parcel) are entitled to at least one single-family residence. The applicants are merely asking to reduce the 100 foot buffer in order to be able to reasonably place a home on the subject lot. The Moreno Short Plat was completed on July 22, 1997, creating 4 lots. However, based on the site visit completed on June 23, 1999 by Staff Planners, if the 100 foot buffer is not varied, this lot would be unbuildable as there would not be adequate space between Canyon Creek and Canyon Creek road to construct a residence and meet the buffer requirements. Furthermore, west of the creek, the zoning designation is FORAG (20) which does not permit a residence. The only location on the entire 9.76 acre parcel where a home can be placed is the location proposed by the applicant.

The subject lot is bordered on the west by Canyon Creek (a 100 foot buffer) and to the east by Canyon Creek Road with a setback of 50 feet from the centerline or 20 feet from the front lot

line, whichever is greater, and the lot is approximately 180 feet at its widest point between Canyon Creek and the centerline of Canyon Creek Road. The reason the 100 foot buffer cannot be maintained is due to a steep slope just west of Canyon Creek Road that extends onto the subject property approximately 40 feet in addition to the road right-of-way. These conditions would leave no feasible building area on the subject lot. The above requirements should be considered special circumstances. If a variance was not granted, this legally created lot would be rendered unbuildable.

Furthermore, based on the above stated buffers, there is no practicable alternative to locating the proposed residence outside of the 100 foot buffer. Requiring the reduced 50 foot buffer be left in an undisturbed state should provide for adequate on-site mitigation as the proposed residence would be built on the only flat area of the property that is currently void of any substantial vegetation. The 50 foot undisturbed buffer is heavily vegetated and if the vegetation is required to be maintained, as suggested above, disturbance will be kept to a minimum. Staff completed a site visit on June 23, 1999 and the 50 foot buffer is the maximum buffer possible while still allowing a residence to reasonably be placed on the property. This portion of the property is zoned for residential purposes, therefore, a residence should feasibly be allowed to be built.

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. Designate the area within 50 feet of Canyon Creek as a natural area and the vegetation and ground within the natural area shall not be disturbed nor developed. All persons are restricted from constructing any structure, or doing vegetation removal or trimming, excavation, grading, filling, bank stabilization or other disturbance of the natural environment to occur, or allowing motorized vehicles or tools within said natural area. All persons entitled to use said natural area shall only use the same for recreational purposes which do not disturb the natural environment. This natural area is intended to control surface water and erosion, maintain slope stability, visual and aural buffering, and protection of plant and animal habitat.
2. All other appropriate permits shall be obtained from public agencies.
3. Prior to the issuance of any building permits on the subject lot, this decision shall be recorded at the County Auditor's office.

If you disagree with this 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,

Mark J. Mazeski 7/30/99

Mark J. Mazeski
Senior Planner

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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 8/20/99. 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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SITE PLAN:

Scale: 1 inches = 120 feet

N

Canyon Creek Rd.
middle of road
Driveway
100'
House 55' Deep
75' Wide
1/4 acre
Canyon Creek

393.33
LOT 4
662.48
1034.96
129.06

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

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FILED FOR RECORD
SKAMANIA CO. WASH
BY CLERK COUNTY CLERK

Dec 14 2 07 PM '00
GARY H. OLSON
AUDITOR

139897

AFTER RECORDING MAIL TO:

Name Bires and Knittle

Address 21200 NE Sandy Blvd. #48

City, State, Zip Troutdale, OR 97060

Statutory Warranty Deed

THE GRANTOR Malcolm E. Moreno and Ruth E. Moreno, husband and wife for and in consideration of Ten Dollars and other valuable consideration in hand paid, conveys and warrants to Duane R. Bires, an unmarried man and Michelle R. Knittle, an unmarried woman the following described real estate, situated in the County of Skamania, State of Washington:

Lot 4, Short Plat, recorded in Book 3 of Short Plats, page 304, records of Skamania County, Washington.

REAL ESTATE EXCISE TAX

21247
DEC 14 2000
PAID \$ 764.00
12/14/2000
SKAMANIA COUNTY TREASURER

Approved
Recorded
By
Date

SUBJECT TO covenants, conditions, restrictions, reservations, easements and agreements of record, if any.

Assessor's Property Tax Parcel Account Number(s): 01-05-05-0-0-1000-00

Dated this 1st day of December, 2000.

Gary H. Martin, Skamania County Assessor

Date 12-14-00 Parcel # 1-5-5-1000

Malcolm E. Moreno

Ruth E. Moreno

STATE OF WASHINGTON
COUNTY OF Clark

I certify that I know or have satisfactory evidence that Malcolm E. Moreno and Ruth E. Moreno are the persons who appeared before me, and said persons acknowledged that They signed this instrument and acknowledged it to be their free and voluntary act for the uses and purposes mentioned in this instrument.

Dated: 12/1/00

Edwin M. Mulvihill
Notary Public in and for the State of Washington
Residing at Washington County
My appointment expires: 4/1/02

