



## ADMINISTRATIVE STAFF REPORT

**Report Date:** March 3, 2022

**Application Submittal Date:** 08/10/2021

**Application Complete Date:** 09/02/2021

**Project Name:** Norman Critical Area Buffer Reduction

**Type of Application:** Critical Area Buffer Reduction (Type II)

**Permit Number:** 21-04365

### Project Location

5274 Crane Ave E,  
Port Orchard, WA  
Commissioner District 2 (South)

### Assessor's Account #

092402-4-002-2007

### Applicant/Owner of Record

Dean and Karla Norman  
3420 SE Guildfore Ct SE  
Port Orchard, WA 98366

### Recommendation Summary

Approved subject to conditions listed under section 13 of this report.

### VICINITY MAP



### 1. Background

Dean and Karla Norman (hereafter, "the Applicant") proposes to reduce a standard wetland buffer by 25% to allow for one single-family home on one vacant lot that is constrained by critical areas. For proposed single-family dwellings, the department may administratively reduce a buffer by up to twenty-five percent of the area required under the standard buffer requirement under a Type II process.

An associated Site Development Activity Permit (21-00639) and Building Permit (21-00637) are in review pending this approval.

### 2. Project Request

The proposal is for the review of a Critical Area Buffer Reduction to allow the reduction of the standard wetland buffer from 110 feet to 82.5 feet (25% reduction) to allow for the placement of a single-family home. In addition, the primary and reserve drainfields are

proposed within the wetland buffer, located 45 feet from the wetland’s edge. Only the primary drainfield will be installed in this area with impacts of approximately 1,500 sf. The full amount of buffer being removed to accommodate the homesite is 12,802 sf and is proposed to be achieved through buffer width averaging. This request is subject to a Type II process with Director’s approval.

**3. SEPA (State Environmental Policy Act)**

The project is SEPA Exempt under KCC 18.04 State Environmental Policy Act.

**4. Physical Characteristics**

The project site is rectangular in shape and approximately 4.24-acres in total size. The project site has undergone prior land use manipulations to include forest harvest, site clearing and grading within the eastern portion of the project site, the development of an adjacent roadway, and development of adjacent properties. The project site is generally dominated by two topographic swales passing from the north to the south – one in the east-central portion of the project site and one in the west-central portion of the project site. The eastern portion of the project site (the selected location for the new single-family homesite) is somewhat flat and has been generally cleared by prior planning actions. The remainder of the project site is dominated by a mixed deciduous/coniferous forest plant community. Existing single-family homesites are located directly to the southwest, north, and east.

**Table 1 - Comprehensive Plan Designation and Zoning**

Comprehensive Plan: Rural Residential Zone: Rural Protection (RR)	Standard	Proposed
Minimum Density	N/A	N/A - Subject property is an existing lot.
Maximum Density	1 dwelling unit/5 acres	
Minimum Lot Size	5 acres	N/A
Maximum Lot Size	NA	N/A
Minimum Lot Width	140 feet	N/A
Minimum Lot Depth	140 feet	N/A
Maximum Height	35 feet	N/A
Maximum Impervious Surface Coverage	N/A	N/A
Maximum Lot Coverage	N/A	N/A

Applicable footnotes: None

*Staff Comment:* The proposal meets applicable standards for the RP zone.

**Table 2 - Setback for Zoning District**

	Standard	Proposed
Front (East)	50 feet	50 feet
Side (North and South)	20 feet 5 feet for accessory structures	North: Approx. 39 feet South: Approx. 75 feet
Rear (West)	20 feet 5 feet for accessory structures	Approx. 850 feet

Applicable footnotes: None

Staff Comment: None

**Table 3 - Surrounding Land Use and Zoning**

Surrounding Property	Land Use	Zoning
North	Single-family residences	Rural Residential (RR)
South	Single-family residences	Rural Residential (RR)
East	Single-family residences	Rural Residential (RR)
West	Single-family residences, Manchester State Park	Rural Residential (RR); Park (P)

**Table 4 - Public Utilities and Services**

	Provider
Water	Onsite system
Power	Puget Sound Energy
Sewer	Onsite system
Police	Kitsap County Sherriff
Fire	South Kitsap Fire & Rescue
School	South Kitsap School District #401

**5. Access**

The site has existing access from the East Via Crane Ave E and the home will be accessed by private driveway.

**6. Site Design**

The image below shows the proposed footprint of the home and associated drainfield as well as the existing driveway. The site plan also shows the location of the onsite wetland.



*Compensatory mitigation shall be the last option of resort in mitigation sequencing, following documentation of avoidance and minimization of any impact to the natural environment that triggers compensatory mitigation. Replacement of altered or displaced natural environments (including critical areas and buffers) must be mitigated either on-site, within the watershed, or service area as defined through an approved mitigation bank or in-lieu fee program.*

The County’s development regulations are contained within the Kitsap County Code. The following development regulations are most relevant to this application:

Code Reference	Subject
Title 12	Storm Water Drainage
Title 13	Water and Sewers
Title 14	Buildings and Construction
Title 17	Zoning
Title 19	Critical Areas
Chapter 18.04	State Environmental Policy Act (SEPA)
Chapter 20.04	Transportation Facilities Concurrency Ordinance
Chapter 21.04	Land Use and Development Procedures

**8. Documents Consulted in the Analysis**

A complete index of exhibits is located in the project file. To date, the index to the record consists of Exhibits listed below.

Exhibit #	Document	Dated
1	Authorization Form	August 11, 2021
2	Permit Questionnaire	August 11, 2021
3	Civil Plans	August 2021
4	Extended Septic Approval	September 2, 2021
5	Critical Area Variance Response Letter	December 17, 2021
6	Revised Critical Area Variance Narrative	February 4, 2022
7	Buffer Establishment Program (Wetland Report)	July 23, 2021

**9. Public Outreach and Comments**

A Notice of Application was distributed pursuant to Title 21 land use and development procedures, which provided recipients with project information and an opportunity for public comment. One comment was received by the department.

Issue Ref. No.	Summary of Concern (See corresponding responses in the next table)	Comment Letter Exhibit Reference No.
1.	Parcel imagery shows previous clearing on Parcel	N/A

2.	Streams are mapped on County GIS	N/A
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Issue Ref. No.	Issue	Staff Response
1.	Previous Clearing	Previous clearing is outside of the 110-foot buffer. Buffer impacts that are part of this proposal will be mitigated with new native plantings and wetland buffer averaging
2.	Streams on Parcel	County GIS maps a Type “N” stream at the bottom of the ravine of Wetland ‘A’. A wetland report was submitted that addressed wetlands and streams and did not find any characteristics that indicated a stream was present in this area.

**10. Analysis**

**a. Planning/Zoning**

The proposal meets all zoning standards of the Rural Residential (RR) Zoning designation, Kitsap County Code Title 17.

**b. Lighting**

Lighting was not analyzed as part of this proposal.

**c. Off-Street Parking**

Per KCC 17.490.030, a single-family dwelling requires 3 parking spaces. The proposal provides adequate parking.

**d. Signage**

No signage is proposed or required.

**e. Landscaping**

Per KCC 17.500.010, single-family lots are exempt from landscaping requirements.

**f. Frontage Improvements**

No frontage improvements are required or proposed as part of this application.

**g. Design Districts/Requirements**

The subject property is not within a design district.

**h. Development Engineering/Stormwater**

Development Services and Engineering has reviewed the land use proposal and finds the concept supportable in its approach to civil site development. Further review will occur with associated site development or building permits.

i. Environmental

**Wetlands and Streams:**

A wetland report was provided by Habitat Technologies, revised July 23, 2021 that identified the following critical areas on site:

CRITICAL AREA	CATEGORY	REQUIRED BUFFER	PROPOSED IMPACT
Wetland A	III	110 feet	<ul style="list-style-type: none"><li>• Reduced wetland buffer by 25% to 82.5 feet, plus additional 15' structure setback</li><li>• Located septic system within wetland buffer, 45 feet from buffer's edge, for 1,500 sq. ft. of direct impact.</li></ul>
Wetland B	III	110 feet	None

A Type "N" stream is mapped on the subject property, however, the submitted wetland report states that these swales do not include a defined stream channel or passage of seasonal surface water, and therefore, no stream was identified.

**Wetland Report and Wetland Buffer Averaging**

A wetland report was provided by Habitat Technologies dated July 23, 2021. Because the proposed homesite would require a modification of the standard 110-foot wetland buffer, the report included buffer averaging totaling 12,802 square feet. The criteria for buffer averaging in KCC 19.200.200.B.1 are discussed below:

- A. The decrease in buffer width is minimized by limiting the degree or magnitude of the regulated activity.

*Staff Comment: The rural residential zoning requires a minimum 50-foot front setback. Given site constraints, there is no alternative placement of the home that conforms to setback requirements that would result in a lesser buffer reduction. In addition, the new homesite location must avoid encroachment onto the top of the gentle slope leading into the area identified to contain Wetland A.*

*According to the submitted wetland report, the homesite development will avoid other potential impacts through directional lighting away from the buffer; a limited use of pesticides within 150 feet of the wetland; the infiltration,*

*treatment, detention, or dispersion of new runoff from surfaces into the buffer; the posting of the established outer boundary of the retained buffer adjacent to the homesite; dust controls during construction; and the planting of a minimum of 100 seedling conifer trees within the buffer area adjacent to the eastern side of Wetland A.*

- B. For wetlands and/or required buffers associated with documented habitat for endangered, threatened, or sensitive fish or wildlife species, a habitat assessment report has been submitted that demonstrates that the buffer modification will not result in an adverse impact to the species of study.

*Staff Comment: The onsite wetlands and their required buffers do not provide documented habitats for endangered, threatened, or sensitive fish and wildlife species.*

- C. Width averaging will not adversely impact the wetland.

*Staff Comment: There are no direct impacts to the wetland proposed. The home will require a 25% reduction in buffer with but will still be located more than 90 feet from the edge of the buffer. The placement of the septic system within the wetland buffer is not expected to have substantial adverse impacts. A wetland report was prepared that includes wetland buffer averaging and native plantings including 100 new conifer seedlings.*

- D. The total buffer area after averaging is no less than the total buffer area prior to averaging.

*Staff Comment: As presently defined the amount of buffer area reduced along the eastern side of Wetland A (12,802 square feet) shall be added to the standard buffer along the western side of Wetland A (12,802 square feet). There shall be no loss of total buffer area through averaging.*

- E. For Category III and IV wetlands with habitat scores less than five points for habitat function based on the Washington State Wetland Rating System for Western Washington: 2014 update, as amended, the minimum buffer width at any point will not be less than fifty percent of the widths established after the categorization is done and any buffer adjustments applied in accordance with this chapter.

*Staff Comment: Does not apply to Wetland A because of the habitat functions score.*



- F. For all other wetlands, the minimum buffer width at any point will not be less than seventy-five percent of the widths established after the averaging.

*Staff Comment: The applicant is requesting a buffer width reduction of 25%.*

**Critical Area Variance Criteria**

Per KCC 19.200.220.B.2, The department may administratively reduce the buffer pursuant to the variance criteria listed in KCC section 19.100.135. Evaluation of these variance criteria is included below:

1. Because of special circumstances applicable to the subject property, including size, shape, or topography, the strict application of this title is found to deprive the 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 the granting of a variance.

*Staff Comment: The proposed home is similar to the size and location of neighboring homes. Lots in this area are heavily constrained by wetlands providing limited area to locate a home. The characteristics of this property require a buffer reduction to accommodate a home similar in size to neighboring properties.*

2. The special circumstances referred to in subsection (A)(1) of this section are not the result of the actions of the current or previous owner.

*Staff Comment: The site conditions were not created by the applicant or previous owner. The environmental constraints requiring a buffer reduction were not the result of the applicant's actions.*

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

*Staff Comment: There are no direct impacts to the wetland proposed. The home will require a 25% reduction in buffer with but will still be located more than 90 feet from the edge of the buffer. The placement of the septic system within the wetland buffer is not expected to have substantial adverse impacts. A wetland report was prepared that includes wetland buffer averaging and native plantings including 100 new conifer seedlings.*

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

*Staff Comment: The rural residential zoning requires a minimum 50-foot front setback. Given site constraints, there is no alternative placement of the home that would result in a lesser buffer reduction.*

5. No other practicable or reasonable alternative exists. (See Definitions, Chapter 19.150.)

*Staff Comment: The site is a narrow rectangular parcel with only one feasible area to build a home. All other locations for the septic drain field have been examined by both a licensed septic designer and also an inspector from Kitsap County Health.*

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

*Staff Comment: The submitted Wetland Report characterizes the wetland buffer functions as well as upland areas outside of the buffer. The report states that avoidance is not possible and discusses minimization and mitigation.*

**Onsite Septic System:**

Per Kitsap County Code 19.200.225.G.3 the construction of an onsite sewage system may be permitted within a wetland buffer only when:

- (a) The applicant demonstrates that the location is necessary to meet state or local health code minimum design standards (not requiring a variance for either horizontal setback or vertical separation),**

*Discussion: The applicant submitted approval from Kitsap County Public Health for the location of the septic system, dated April 17, 2018.*

- (b) There are no other practicable or reasonable alternatives available, and**

*Discussion: According to the narrative submitted by the applicant, all other locations for the septic drainfield have been examined by both a licensed septic designer and an inspector from Kitsap County Health. Due to the constraints on the lot, the home can only be placed in the far eastern portion of the lot, allowing only one location for the septic drainfield behind the primary home.*

**(c) Construction meets the requirements of this section.**

*Discussion: The following condition of approval has been added: "Construction techniques shall implement best management practices to ensure protection of Wetland A, its associated buffer, and local water quality. Such best management practices shall include protective silt fencing would define work areas, protective orange construction fencing along defined work areas, work during periods of limited rainfall or potential for adverse erosion, and seeding of exposed soils as needed to prevent adverse erosion."*

**Geological Hazards:**

Per KCC 19.400.420, an area in the central portion of the parcel is mapped as a Moderate Erosion Hazard, however, the home is placed outside of this mapped area in a flat portion of the parcel. A condition of approval has been added to require a minimum separation 25-foot native vegetation buffer from the edge of slope plus an additional 15-foot structure setback, unless otherwise allowed through a Geological Assessment.

**j. Access, Traffic and Roads**

No comments at this time.

**k. Fire Safety**

No comments at this time.

**l. Solid Waste**

No comments at this time

**m. Water/Sewer**

Potable water is proposed to be provided by an on-site well; sanitary sewage disposal is proposed to be provided by an on-site septic system. Prior to site development activity the applicant must provide approval for water and sewer from Kitsap County Health Department.

**n. Kitsap Public Health District**

No comments at this time.

**11. Review Authority**

The Director has review authority for this Critical Area Buffer Reduction application under KCC 21.04.100. The Director may approve, approve with conditions, or deny this application.

## **12. Findings**

1. The proposal is consistent with the Comprehensive Plan and the zoning standards for the Rural Protection (RP) zone in Title 17.
2. The placement of the on-site septic system within the wetland buffer meets criteria in KCC 19.200.225.G.3.
3. The proposal meets the criteria for a critical area variance in KCC 19.100.135, as analyzed in section 10.i of this report.

## **13. Recommendation**

Based upon the analysis above and the decision criteria found in KCC 19.100.135, the Department of Community Development recommends that the Norman Critical Area Buffer Reduction be **approved**, subject to the following conditions:

### **a. Planning/Zoning**

1. All required permits shall be obtained prior to commencement of land clearing, construction and/or occupancy.
2. The authorization granted herein is subject to all applicable federal, state, and local laws, regulations, and ordinances. Compliance with such laws, regulations, and ordinances is a condition to the approvals granted and is a continuing requirement of such approvals. By accepting this/these approvals, the applicant represents that the development and activities allowed will comply with such laws, regulations, and ordinances. If, during the term of the approval granted, the development and activities permitted do not comply with such laws, regulations, or ordinances, the applicant agrees to promptly bring such development or activities into compliance.
3. The decision set forth herein is based upon representations made and exhibits contained in the project application Permit #21-04365. Any change(s) or deviation(s) in such plans, proposals, or conditions of approval imposed shall be subject to further review and approval of the County and potentially the Hearing Examiner.

### **b. Development Engineering**

4. An engineered Site Development Activity Permit is required, due to some of the work taking place within mapped critical areas. All work shall be in accordance with the Accepted Plans under Site Development Activity Permit #21-00639, once approved.

### **c. Environmental**

5. Construction techniques shall implement best management practices to ensure protection of Wetland A, its associated buffer, and local water quality. Such best management practices shall include protective silt fencing, protective orange construction fencing along defined work areas, working during periods of limited rainfall or potential for adverse erosion, and seeding of exposed soils as needed to prevent adverse erosion.
6. Due to the mapped erosion hazard area on this parcel, a non-clearing native vegetation buffer shall be maintained from the top of the slope to 25 feet beyond the top of the slope as depicted on the approved site plan, unless otherwise allowed through a Geological Assessment. In addition, a building or impervious surface setback line of 15 feet is required from the edge of the buffer.
7. Prior to occupancy, the common boundary between the wetland buffer and the adjacent land shall be permanently identified with critical area buffer signs. Critical Area Ordinance (CAO) signs shall be placed along the designated boundary spaced approximately 50-feet apart, visual from sign to sign. Signs must be attached to existing trees with diameter breast height greater than 4 inches. Alternative methods include 4x4 posts, metal posts or split rail fencing.
8. Equipment shall be staged in the previously cleared area in the east of the site. Avoid staging further within the critical area buffer.
9. Permit application approval is subject to chapter 19.300.315 of Kitsap County Code, which states that buffers or setbacks shall remain undisturbed natural vegetation areas except where the buffer can be enhanced to improve its functional attributes. Refuse shall not be placed in buffers.
10. Clearing and tree removal within the established wetland buffer shall be the minimum necessary to support the proposed improvements. Clearing limits must be clearly shown on the site plan with the associated building permit and clearing outside of the approved limits will require prior County approval.
11. Due to area constraints from on-site wetlands and their associated buffers, averaging was applied. The total area contained within the buffer after averaging shall be no less than that contained within the standard buffer prior to averaging. The decrease in buffer widths is the minimum size required for the regulated activity and is no less than 50% of the required width. The minimum applied width is 82.5 feet as shown on the approved site. In addition, a building or impervious surface setback line of 15 feet is required from the edge of the wetland buffer.
12. As shown on the approved site plan, 12,998 square feet of added buffer area shall be provided directly to the west of Wetland 'A'.
13. Unless otherwise allowed through this Critical Area Buffer Reduction, a 110-foot native vegetation buffer must be maintained along the delineated wetland boundary of Wetland 'A' as depicted on the approved plans. In addition, a building or impervious surface setback line of 15 feet is required from the edge

of the buffer, unless otherwise approved by this variance.

14. The project shall adhere to the mitigation measures and recommendations within the approved Wetland Report prepared by Habitat Technologies dated July 2021. Per the report, 100 seedling native coniferous trees would be planted within the retained buffer along the eastern boundary of Wetland A. Disturbed areas within the wetland buffer shall be revegetated.
15. Vegetation planting shall occur as specified in the approved planting plan produced in support of this permit. Planting of native vegetation shall occur within the first dormant season once the permitted project has been constructed and approved. When planting is complete, the applicant must contact Development Service and Engineering Staff at (360)337-5777 for a site inspection and as-built approval. Monitoring and maintenance of the planted area shall be conducted for three years after DCD staff approves planting. Monitoring includes live and dead vegetation counts and records of all maintenance activities. Maintenance activities can be defined as, but are not limited to, removal practices on invasive or nuisance vegetation and watering schedules. Monitoring information shall be summarized in a letter with photographs depicting conditions of the vegetation and overall site. Monitoring reports are due to Kitsap County Department of Community Development Services and Engineering Division by December 31 of each monitoring year. If more than 20 percent of the plantings do not survive within any of the monitoring years, the problem areas shall be replanted, and provided with better maintenance practices to ensure higher plant survival.

**d. Traffic and Roads**

16. At building permit application, submit KCPW Form 1601 for issuance of a concurrency certificate, as required by KCC Section 20.04.030, Transportation Concurrency.

**e. Fire Safety**

17. None at this time.

**f. Solid Waste**

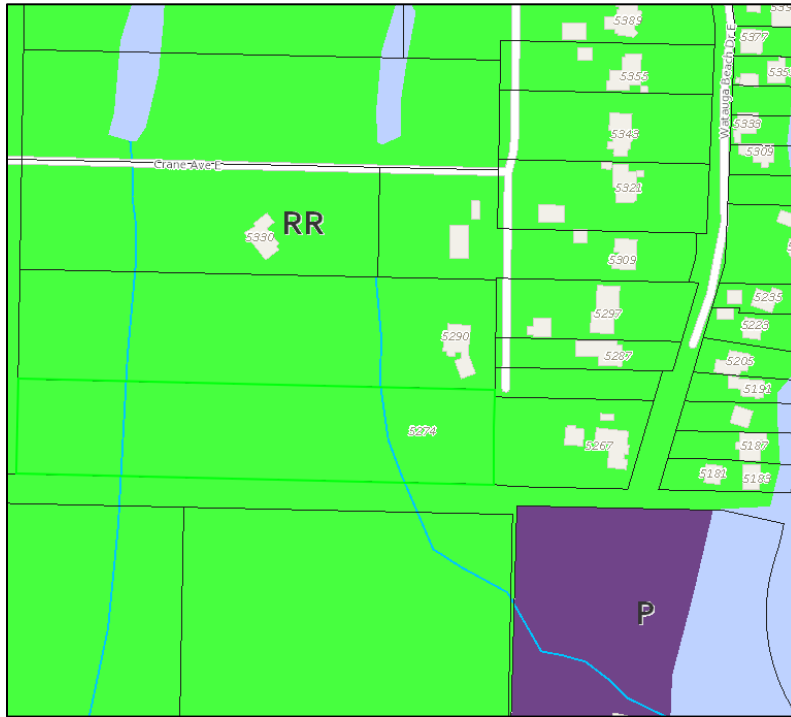
18. None at this time.

**g. Kitsap Public Health District**

19. None at this time.



Attachment A – Zoning Map



Attachment B – Critical Areas

