

**RECORD OF THE PROCEEDINGS
SKAGIT COUNTY BOARD OF COMMISSIONERS**

Tuesday, September 21, 1993

- 8:00 a.m. - 9:00 a.m. Discussion - Impacts of Evaluation and Treatment Facility on County Judicial Services - Joanne Angevine, Human Services Director.
- 9:00 a.m. - 10:00 a.m. Department of Planning and Community Development - Dave Hough, Director:
- 1) Discussion - Sedro-Woolley Annexation.
 - 2) Presentation - Major Project Assignment Report.
 - 3) Miscellaneous.
- 10:00 a.m. - 10:45 a.m. Appeal - Shoreline Substantial Development/Variance #SHL-93-013 of Larry Reed, 2182 Cove Road, Sedro-Woolley .
- 10:45 a.m. - 11:30 a.m. Appeal - Shoreline Substantial Development/Variance #SHL-93-009 of Harold and Barbara Foss, 3263-A South Shore Drive, Mount Vernon.
- 1:30 p.m. - 2:30 p.m. Appeal - Special Use Permit #SPU-92-024 of Melvin Farnsworth, 1129 Whistle Lake Road, Anacortes.

The Skagit County Board of Commissioners met in regular session on Tuesday, September 21, 1993, with Commissioners Robert Hart, Robby Robinson and Harvey Wolden present.

DISCUSSION - IMPACTS OF EVALUATION AND TREATMENT FACILITY ON COUNTY JUDICIAL SERVICES - JOANN ANGEVINE, HUMAN SERVICES DIRECTOR.

JoAnn Angevine, Human Services Department Director, provided a status report on the North Sound Evaluation and Treatment Facility. Dr. Jess Jameson, Director of Olympia Mental Health Center, the contracting agency that runs the NSRSN facility in Sedro Woolley and a similar facility in Snohomish County, was also present for the discussion.

Ms. Angevine's report stated that the North Sound Evaluation and Treatment (E&T) Facility opened in April, 1993, at the site of the defunct Northern State Hospital property east of Sedro Woolley, after five years of planning by the North Sound Regional Support Network. It houses up to 15 mentally ill involuntarily detained individuals at any given time.

Ms. Angevine's report explained that initial detentions are limited to 72 hours, after which a Superior Court hearing is necessary to determine if a commitment will be ordered. Additional hearings may occur at later dates if a commitment is determined. Hearings require the presence of a Superior Court Judge or Court Commissioner, a Prosecuting Attorney, a Court Reporter, and a Defense Attorney, who is usually a Public Defender. Although a courtroom facility is included in the new E&T facility, hearings have been conducted at Skagit County's Courthouse facility, which requires patients to be transported from the E&T facility in Sedro Woolley to court in Mount Vernon.

Mrs. Angevine stated that originally, although the facility was designed to hold court at the site, it has been a great burden on the officers of the court to have to travel to the Sedro Woolley site to hold court. Mrs. Angevine stated that it would seem that, in order to alleviate the court's burden, the most reasonable course would be to contract with someone to provide the court services at the E&T site.

Dr. Jameson stated that in Snohomish County, court is held at the E&T facility. He stated that the approximate travel time to the site is 20 to 25 minutes.

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Mrs. Angevine stated that statistics indicate that half of those served at the Sedro Woolley facility are Skagit County residents; therefore, half of the patients would already have to receive local court services regardless of whether the E&T had been built or not. Court Commissioner Susan Ward Cook remarked that not all of the patients from Skagit County require 14-day hearings, therefore it is not reasonable to assume that Skagit County is responsible for a full 50% of the burden on the court. Mrs. Angevine stated that Island and Whatcom County patients are also served at the facility.

Nicki Gaynor, the on-site director of the Sedro Woolley facility, estimated that less than half of the patients treated at the facility require a 14-day hearing.

Dave Needy, Prosecuting Attorney, stated that many patients have more than one hearing. Some have one hearing at 72 hours, at 14 days, one at 90 days, and perhaps a revocation hearing at some point. Patient census is not a clear indication of the court's burden.

Mrs. Angevine summed up, stating that the County judicial system has encountered a hardship and is requesting the Board's assistance to correct the inequitable burden. Some officials have suggested that Senator Harriet Spanel should be approached for legislative impact fees to offset this hardship; however, Chairman Hart felt that no additional state fees would be forthcoming, Mrs. Angevine stated. Mrs. Angevine therefore suggested that the Board of Commissioners should contact the other two Counties' Boards to solicit a contribution which would be based upon the patient census and their utilization of court services.

Mike Woodmansee, Budget/Finance Director, queried Mrs. Angevine on how other Evaluation and Treatment Centers pay for court services. It appeared that no other E&T facility had a method of equitably distributing their costs to the users of their facilities.

Bob Taylor, Administrative Officer, asked Mrs. Angevine if she could provide dollar figures to indicate the specific amount of the impact on the various departments within the law and justice system. Mr. Woodmansee indicated that it may be possible to figure costs by soliciting a contract for independent judicial services, which would result in a bid that would potentially reflect an amount close to actual costs.

Mrs. Angevine reported that it was initially planned that Tuesday and Thursday mornings court services for the E&T facility would be provided by County judicial officials. Pam Greene, Superior Court Administrator, reported that the need for services has become more frequent lately.

Mrs. Angevine reported that court transportation costs for the patients are covered through the facility's operating funds.

Judge Mike Rickert pointed out that there is always a danger associated with transporting and serving mental health clients in the Courthouse judicial facilities, since some patients require special management.

The group then discussed the use of a pro-tempore judge and public defender to perform hearings at the courtroom at the E&T facility. Judge Rickert and Public Defender Rob Jones complained that they were not consulted about the impact of travel time to the site when the facility was planned. Mr. Jones pointed out that the Board should realize that there is a great deal of time required of an attorney to defend a single patient, so that the Board should not be left with the impression that this is a service that would require two mornings per week only. Chairman Hart attempted to ascertain whether Mr. Jones' office was being negatively impacted by the amount of travel time required for serving clients at the facility, and Mr. Jones indicated that his office could accommodate the travel time.

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Dave Needy pointed out that the judicial system will be further impacted by the planned 135-bed mental health and alcohol treatment facility that will be completed near the Northern State site in the near future. Whatever is done, Mr. Needy stated, should take into account the impacts of that program.

Mrs. Angevine pointed out that the County will receive an impact fee for this facility. Mrs. Angevine suggested that the 135-bed facility may be interested in sharing courtroom facilities with the E&T Facility. Arguments both for and against using the on-site facility were heard.

The Board required of staff information on the actual dollar estimates of impacts on each office. A general consensus was reached among the Board of Commissioners that options including 1) contracting for court services on the site, 2) compensating current County court staff for the additional burden of serving the E&T clients either on the site or at the County courtrooms, and/or 3) requiring that a portion of the costs be shared by Whatcom County and Island County, would be pursued.

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT - DAVE HOUGH, DIRECTOR:

1) Discussion - Sedro Woolley Annexation.

Kraig Olason, Assistant Director, reported that the County has adopted the policy of reviewing every proposed annexation of territory by local municipalities for consistency with future planning under the Growth Management Act, and adherence to County-Wide Planning Policies. At one point, the County required pre-annexation agreements for each proposal by city governments. The case before the Board today, Mr. Olason stated, is a relatively logical and reasonable request by the City of Sedro Woolley to annex property north of Cook Road and east of Prospect Road. In addition, Mr. Olason stated, Paul Carr, Capital Facilities Planner has been asked to review the annexation with respect to the mitigation of loss of agricultural land.

Mr. Carr provided a vicinity map of the property. Other maps indicated the proposed urban growth areas for the City of Sedro Woolley, and a more detailed view of the site, as well as an Agricultural Rating System Report for the site. A "test parcel list" compared the annexation with other properties located throughout the County. A currently unopened road right-of-way across the property which would connect Cook Road with F&S Grade Road was briefly discussed. Mr. Carr remarked that if the developer should submit a request for vacation of the right-of-way, he would recommend at this time that the request be denied. Mr. Carr felt that when fully developed, the subdivision planned would generate a number of students who would need an area to wait for the school bus. As well, driveways ingressing and egressing onto Cook Road would impact Cook Road traffic. Also, a culvert which would accommodate the drainage from the property may not be adequate to serve the new development. Mr. Carr suggested that the Board direct that he meet with Carol Johnson, Sedro Woolley City Planner, to try to resolve some of the issues he has pointed out. He stated that this meeting might preclude referral of the matter to the Boundary Review Board.

Mr. Carr also stated that the Design Review Committee had suggested buffering of the site from adjacent agricultural land, as well as a note on the plat indicating the nearby farming uses.

Mr. Olason discussed the "agricultural rating system" developed by the Planning Department to consistently review a proposal's impacts on agricultural land. Recoupment of open space penalties for properties that may be in open space designation at the time of annexation was discussed.

2) Presentation - Major Project Assignment Report.

Mr. Hough presented a matrix indicating each major project being undertaken by the Planning Department,

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its current status, the responsible staff member, and the duration of the project.

3) Miscellaneous.

- A. Mr. Hough reminded the Board that the County asked for Boundary Review Board jurisdiction on an annexation by the City of Mount Vernon for the Mount Vernon Christian School property on Blackburn Road. Since that time, Mr. Hough stated, he has met with Rick Cisar, the Mount Vernon City Planner, who has clarified those issues of concern. Mr. Hough presented a letter prepared for the Board's signature withdrawing the Board's request for Boundary Review Board jurisdiction.

Commissioner Robinson motioned to approve the letter for signature. Chairman Hart seconded the motion, which passed unanimously.

- B. Mr. Hough stated that he attended a meeting on Thursday in Darrington regarding a proposed ATV Park in the Darrington area. Ross Kane, Commissioner from Snohomish County was also present. The purpose of the meeting was to determine if any entity would be willing to be responsible for sponsoring the project. The Town of Darrington, which was the entity responsible for promoting the project, refused sponsorship. Commissioner Kane also indicated that he would be unable to garner enough support from his council for sponsorship of the project. Skagit County representatives also declined sponsorship, and therefore, after about a two hour meeting, the project died.

- C. A contract for construction of disabled person accessible restrooms at the Skagit County Fairgrounds was introduced, as the Fair Manager had scheduled the contractor to begin the work today.

In accordance with action previously taken, Commissioner Robinson motioned to approve the resolution with Wise Service for the movement of a trailer at the Skagit County Fairgrounds to facilitate construction of disabled persons accessible restrooms at the Skagit County Fairgrounds for the contract price of \$1,329.77. (Contract #001779)

APPEAL - SHORELINE SUBSTANTIAL DEVELOPMENT/VARIANCE #SHL-93-013 OF LARRY REED, 2182 COVE ROAD, SEDRO WOOLLEY.

Mr. Reed was absent at the appointed time for the meeting. Staff confirmed that a personal telephone call was made to Mr. Reed to provide appropriate notification of the meeting date and time. When Mr. Reed's absence was noted, subsequent contact with Mr. Reed by phone revealed that his assistant had not given him the telephone message from Planning staff, notifying him of the time and date for his appeal. The appeal was rescheduled to October 18, 1993, at 10:00 a.m.

APPEAL - SHORELINE SUBSTANTIAL DEVELOPMENT/VARIANCE #SHL-93-009 OF HAROLD AND BARBARA FOSS, 3263-A SOUTH SHORE DRIVE, MOUNT VERNON.

The Board had previously received a packet of information containing the appeal, the Hearing Examiner's Findings, and the Staff Report (exhibit #1).

Zoe Pfahl, Assistant Shoreline Administrator, provided a report compiled for this appeal, dated September 21, 1993, which summarized the Foss permit request (exhibit #2). The following was reviewed by Ms. Pfahl:

The Foss property is located on Lake Cavanaugh, and contains a two-bedroom cabin, shed, outhouse and

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septic tanks. Construction on Lake Cavanaugh is subject to shorelines approval, with setbacks as follows:

Shore setbacks: Residence - 50'
 Accessory Structures - 35'
 Sideyard setback - 8'

The Foss's had decided to expand their cabin to a year-round dwelling, and so had planned to add a new addition and to enclose an existing porch. They went ahead with their plans without benefit of a permit and had already completed the porch and a dormer on the roof before enforcement action forced them to apply for the proper permits. Their plans call for placing the addition to the home 30' from the shoreline, and 6' from the east side of the property. This would require a variance from both the front and sideyard setback.

The cabin is an existing, non-conforming structure, as it encroaches on the front (waterward) setback in its present location 30' from the shoreline.

In order to qualify for a variance, the proposal must meet all of the following criteria:

- that the strict application of the setback rules significantly interferes with the reasonable use of the property
- that there is a unique condition related to lot features such as irregular lot shape, size or natural features
- that the project will be compatible with other permitted activities in the area
- that the variance does not grant a special privilege to the applicant
- that the public interest will suffer no substantial detrimental effect

The applicant points out that his septic tank and drainfield are located on the south side of the residence, and moving them any further back would put them in conflict with a seasonal surface water runoff ditch, a steep grade and four large trees.

Staff felt that the variance should be denied, as the location of the septic tank and drainfield was a hardship created by the applicant, himself. They also felt that, while the proposal is similar to other uses in the area and will not obstruct neighboring views, non-conforming structures are not to be encouraged, and the goal is eventual elimination of them.

The Hearing Examiner agreed with staff that the applicant could achieve the reasonable use of the property without a variance, and that no topographical feature exists that warrants the granting of the variance. It would appear, however, that the Hearing Examiner had no objection to the enclosure of the porch, but for an apparent procedural problem, denied it as well.

Ms. Pfahl indicated that at the public hearing, the Foss's demonstrated that they would not need to receive a sideyard variance, as they had made an error in their measurements and they were actually 8' away, instead of the 6' they had originally indicated. They are therefore in compliance with sideyard setbacks, and only the front setback is in question.

Chairman Hart confirmed with Ms. Pfahl that their proposed front setback is no further forward than the existing residence.

Ms. Pfahl indicated that the Board should base their questions and review on answering the question of whether the harm to the applicant is greater than the good provided to the public, and whether all variance criteria must be satisfied. While the Hearing Examiner felt that the application satisfied the first issue, he did

not feel that the variance criteria was satisfied because a topographic hardship did not exist.

The Board confirmed that the septic tank currently conforms to accepted setbacks from the residential structure. Ms. Pfahl submitted photographs of the residence showing the enclosed porch and foundation of the addition (exhibit #5). The photographs had previously been introduced into the record of the Hearing Examiner.

The Board noted the existence of a "seasonal stream" or "stormwater runoff" on the property.

Mr. Foss submitted a packet of information for the Board, which contained a position statement relative to his appeal (exhibit #3).

Commissioner Robinson asked how long the porch and deck had existed. Mrs. Foss replied that it was there when the home was purchased.

Chairman Hart questioned whether there was a legal distinction between a deck and a porch. Ms. Pfahl stated that the enclosure of the porch caused it to become part of the residential structure. Mrs. Foss agreed that they had covered an open deck area.

Chairman Hart stated that although it appears that there may be other things that could possibly be done on the property, the request does not seem unreasonable, and Commissioner Robinson agreed that the proposal would not change the footprint of the house, therefore would not impact the neighbors.

Ms. Pfahl reminded the Board that they should seek whether the applicants have grounds for a variance from the 50' shore setback requirement.

Chairman Hart felt that all of the variance criteria were answered, with the exception of the existence of a topographical hardship, the Board should determine whether one does or does not exist.

Chairman Hart felt that because of the location of the septic tank and the fact that there is stormwater runoff in the area would constitute a topographical hardship. Since the footprint would not change, the remainder of the property therefore would not suffer additional development. If the Foss's were required to construct their addition on the south side of the existing structure, it might adversely impact the stormwater runoff on the property, where the east side proposal would not.

Commissioner Wolden then motioned to adopt the Board's own findings of fact, as stated by Chairman Hart, and reverse the decision of the Hearing Examiner, accepting the pre-existing, non-conforming footprint of the house as an acceptable alternative for the expansion of the home. Chairman Hart seconded the motion, which passed unanimously.

APPEAL - SPECIAL USE PERMIT #SPU-92-024 OF MELVIN FARNSWORTH, 1129 WHISTLE LAKE ROAD, ANACORTES.

Chairman Hart opened the meeting. He noted that the appellant was not present, that Grace Roeder, Associate Planner, had just contacted Ms. Eslick, the appellant, by telephone, and she has stated that she made other plans today, as she did not feel it was necessary to attend. Mrs. Roeder was asked to read the personal letter sent to Ms. Eslick into the record, and this was accomplished. This letter made clear that Ms. Eslick was expected to attend the meeting.

Mrs. Roeder then provided an assessor's map (exhibit #2) and a short plat (exhibit #3) of the Farnsworth

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property. An elevation plan (exhibit #4) of the Farnsworth proposal was also provided to the Board. A packet containing the staff report and Hearing Examiner's Findings had been previously submitted to the Board (exhibit #1).

The Farnsworth property is approximately 9.69 acres in size zoned Residential Reserve. In 1992, Mr. Farnsworth had the property shortplatted into three lots, each with an existing building on it. Lot 1 is one acre in size, Lot 2 is one acre in size, Lot 3 is 7.69 acres in size. Lot 3 is the subject property of this appeal.

Lot 3 contains an existing building that was constructed in 1964 as a two-family residence, where Mr. Farnsworth wishes to establish a duplex. It would be served by PUD water, and has an existing septic tank and drainfield that is functioning at this time. Mr. Farnsworth has built a new road to serve Lots #2 and #3. This gravel road is located quite close to the south property line, is only 16' in width, and the septic tank and drainfield are located quite close to the new road. Mr. Farnsworth and his family are currently living in the building while a new home is being constructed for Mr. Farnsworth on one of the adjacent lots.

Since 1984, Skagit County has considered duplex applications as a special use. The following criteria is applied to applications:

- they should conform with existing and future land uses
- they should conform to zoning
- traffic and parking should be considered
- noise, odors, heat, vibration, air and water pollution should be considered
- intrusion of privacy should be considered
- the project should be designed so as not to impact the neighborhood
- regional impacts should be considered
- public health, safety and welfare should be considered

The Hearing Examiner and staff agreed that the special use permit should be approved, with the following conditions:

1. Obtain all necessary permits.
2. Revise plans to include two parking spaces per unit, a complete on-site turn around, and a shrubbery screen and fencing to the south.
3. Install a "Caution - Narrow Road" sign at the intersection of the gravel road and Whistle Lake Road.
4. Submit an on-going dust control plan for dust from the gravel road.
5. If further subdivision of the property occurs, the duplex must remain on a 2 acre lot.
6. The project must be started in two years or the permit is void.
7. The permit is void if the project is abandoned for more than 180 days.

Ms. Roeder stated that on August 24, Mrs. Eslick filed an appeal of the Hearing Examiner's decision. Which brings the matter before the Board today for consideration. Mrs. Roeder stated that the Hearing Examiner's file contains a number of letters submitted by neighbors of the Farnsworth property, and noted that they could be provided at the request of the Board.

The appellant, Susan Eslick, owns the property directly to the south of the Farnsworth property, across the gravel road. Her house is approximately 75 feet south of the gravel road. She, along with neighbors Rhonda Kahl-Conway and Chris Fenton, requested a reconsideration by the Hearing Examiner which was granted, and the Hearing Examiner reaffirmed his earlier decision.

Among Ms. Eslick's reasons for the appeal are:

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- The impact of additional residential development on the area, its character and its traffic. The duplex was empty for 15 years before the Farnsworth's bought it, so it should not be considered as an existing or grandfathered use.
- The duplex is very close to Ms. Eslick's property, and she is concerned about the hedge and fence being required but not installed, and the road oiling being required but not performed.
- The possibility that the Farnsworth property may be further subdivided, and residential density may increase in future.
- The fact that the area is included in the Anacortes Urban Growth Boundary, and there has been some indication that Anacortes wishes to keep this area rural in nature.
- The County has just introduced an interim 5-acre minimum lot size regulation.
- The appellants maintain that the Public Works Department has not reviewed this project.

Chairman Hart confirmed that neither lots #1 or #2 were subject to the appeal at this time, and Mrs. Roeder confirmed that only lot #3 is the subject of the appeal. Chairman Hart noted that within the appeal submitted by Mrs. Eslick there are some questions on enforcement of the conditions set down by the Hearing Examiner. He confirmed that these conditions would be enforced by County staff.

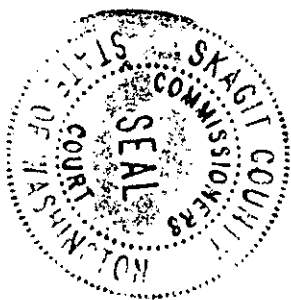
Chairman Hart stated that in his review of the proceedings he noted that there was significant opposition by many of the neighbors, however, the process the applicant has undertaken has been in compliance with County policy and procedure, and that he did not see any reason to overrule the Hearing Examiner.

Commissioner Wolden agreed, but questioned a condition that if the project is abandoned for greater than 180 days, the permit would become void. Mrs. Roeder stated that this is a standard condition placed upon most proposals. She stated that Mr. Farnsworth's building permit is completed and is ready to be claimed.


Chairman Hart then motioned to uphold the Hearing Examiner's decision. Commissioner Robinson seconded the motion, which passed unanimously.

ADJOURNMENT:

Commissioner Robinson motioned to adjourn the proceedings. Commissioner Wolden seconded the motion. The motion was carried unanimously.



BOARD OF COUNTY COMMISSIONERS
SKAGIT COUNTY, WASHINGTON



Robert Hart, Chairman

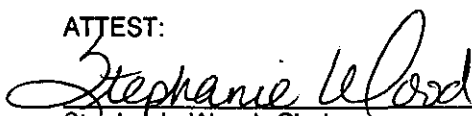


Robby Robinson, Commissioner



Harvey Wolden, Commissioner

ATTEST:



Stephanie Wood, Clerk
Skagit County Board of Commissioners