

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

Tuesday, September 27, 1994

- 7:30 a.m. - 8:30 a.m. Commissioners' Staff Meeting.
- 8:30 a.m. - 9:00 a.m. Work Session - Operations Division Manager/District Road Maintenance Supervisors.
- 9:00 a.m. - 10:00 a.m. Planning Department - Dave Hough, Director.
- 1) Discussion - Historic Cultural Element - Comprehensive Plan.
 - 2) Code Enforcement Report.
 - 3) Miscellaneous.
- 10:00 a.m. - 10:30 a.m. Public Hearing - Amendments to Skagit County Code Section 10.12 Regarding County-Owned Parking Lots.
- 10:30 a.m. - 11:30 a.m. Appeal by William Wooding, et al., of Hearing Examiner's Decision Regarding Mitigated Determination of Non-Significance for Rosario Road Improvement Project.
- 1:30 p.m. - 5:30 p.m. Budget Work Sessions:
- 1:30 p.m. - 2:00 p.m. District Court.
 - 2:00 p.m. - 2:30 p.m. District Court Probation.
 - 2:30 p.m. - 2:45 p.m. Commissioners.
 - 2:45 p.m. - 3:00 p.m. Civil Service.
 - 3:00 p.m. - 3:15 p.m. Board of Equalization.
 - 3:15 p.m. - 3:30 p.m. Insurance Services.
 - 3:30 p.m. - 4:00 p.m. Records Management.
 - 4:00 p.m. - 4:15 p.m. Veteran's Relief.
 - 4:30 p.m. - 5:30 p.m. Administrative Services.

The Skagit County Board of Commissioners met in regular session on Tuesday, September 27, 1994, with Commissioners Harvey Wolden, Robby Robinson and Robert Hart present.

PLANNING DEPARTMENT - Dave Hough, Director.

1. Discussion - Historic Cultural Element - Comprehensive Plan.

Oscar Graham, Senior Planner, stated that Goal #13 of the Growth Management Act reads:

"Historic Preservation: Identify and encourage the preservation of lands, sites and structures that have historic or archaeological significance."

Mr. Graham advised that the Office of Archaeology and Historic Preservation has referenced this goal in a response to the Draft Environmental Impact Statement prepared pursuant to the Land Use Element of the Comprehensive Plan as follows:

"We also recommend that the County take steps to maintain consistency of other elements of the plan with historic preservation goals. This is particularly true of goals and policies regarding natural resource protection, critical areas, transportation and land use."

A discussion ensued on the fact that history in Skagit County is very short, only about 150 years, and due to familiarity of our surroundings, residents are not sensitive to the disappearing elements of our landscape. Nearness and accessibility of history has left us insensitive to preserving it. Historic Preservation as a function of government has only been around for approximately 30 years. Historic preservation in the 60's and 70's preserved architectural monuments that had presence in the community. Important structures have been identified as being significant and a link to our past. Unfortunately, incentives are not great for the preservation of historic structures.

Mr. Graham advised that there are three steps in historic preservation. These are: Inventory (going through the jurisdiction to find those of historic significance or strong association with the local community), Designation (on state, federal or local level, so a list is established and designation associated thereto), and finally, Incentives for Maintenance and Preservation.

A brief discussion followed concerning the level of involvement the County can or should take in this regard. Mr. Graham advised that he is not pitching a developmental plan, but that elements of the landscape are important to recognize. Informed decisions need to be made where necessary.

Mr. Graham showed several slides and noted that views and vistas are considered a cultural resource.

Jim Barmore of the Skagit County Museum stated that having these historic cultural resources identified is important, and that having a record serves to help document what once was. The historical society helps facilitate research of old properties and select historic sites. Recording history is an important function.

2. Code Enforcement Report.

The Code Enforcement Report was reviewed.

3. Miscellaneous.

Dave Hough, Planning Department Director, queried the Board on initiating contact with the various school districts to begin procedures for the establishment of impact fees.

A brief discussion ensued on the various school districts and the associated growth therewith.

The Board indicated that Mr. Hough should contact the school districts and provide the Board with a report within the next two weeks.

PUBLIC HEARING - AMENDMENTS TO SKAGIT COUNTY CODE SECTION 10.12 REGARDING COUNTY-OWNED PARKING LOTS.

Commissioner Hart opened the public hearing.

Kathy Brown, Commissioners' Office Staff, stated that the revised Ordinance is an effort to update the County Code, that each parking lot has been specifically reviewed and included with the intent of assisting in the enforcement of parking lot violations. Ms. Brown reviewed the specifics of the changes to the County

Code, and stated that John Moffat, Chief Civil Deputy, has reviewed and approved the Ordinance.

There being no public comment forthcoming, Commissioner Robinson moved to close the public hearing. The motion was seconded by Commissioner Hart, and unanimously carried.

Commissioner Robinson moved to approve the Ordinance Amending Skagit County Code Section 10.12 Regarding County-Owned Parking Lots. The motion was seconded by Commissioner Hart and passed unanimously.

APPEAL BY WILLIAM WOODING, ET AL., OF HEARING EXAMINER'S DECISION REGARDING MITIGATED DETERMINATION OF NON-SIGNIFICANCE FOR ROSARIO ROAD IMPROVEMENT PROJECT.

Zoe Pfahl, Shoreline Administrator for Skagit County, stated that this is an appeal of the Skagit County Hearing Examiner's Decision AAP 94-015 upholding the Department of Planning and Community Development's determination to use a Mitigated Determination of Nonsignificance (MDNS) for the proposed Rosario Road improvements. Ms. Pfahl advised that the proponent has filed a timely appeal as indicated in Section 14.24.170(1)(a). The subject appeal concerns the SEPA threshold determination for proposed improvements to Rosario Road, to include the reconfiguration of the intersections with Marine Drive and Heart Lake Road, widening of the pavement to eleven foot wide lanes with six foot wide paved shoulders, and minor horizontal and vertical curve modifications to improve sight distances.

Ms. Pfahl advised that the Skagit County Department of Planning and Community Development determined that the proposed project does not have a probable significant adverse impact on the environment, provided that the following conditions are met:

1. All construction and development shall comply with the Skagit County Shoreline Management Master Program and the Shoreline Management Act.
2. The applicant shall obtain a Fill-and-Grade Permit from Skagit County prior to construction.
3. A Temporary/Sedimentation/Control Plan shall be approved by the Skagit County Department of Public Works prior to construction.
4. The applicant shall obtain an approved Hydraulic Project Approval from the Washington State Department of Fish and Wildlife prior to start of construction.
5. The applicant shall receive approval from the U.S. Army Corp of Engineers for placement of fill within identified wetlands.
6. The Washington State Department of Ecology shall approve a wetland mitigation plan for the disturbance of wetlands deemed associated with Lake Erie.

Ms. Pfahl advised that the Department of Planning and Community Development has determined that there will be impacts, but through proper permitting and development performance in compliance with the conditions imposed in the MDNS issued on April 13, 1994, all significant impacts would be mitigated and therefore would not be determined to be adverse in nature.

Ms. Pfahl noted that the Board has the following options on this appeal:

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- 1) To approve and adopt the decision of the Hearing Examiner.
- 2) To remand the matter back to the Hearing Examiner for further consideration.
- 3) To call for the Board's own public hearing to consider testimony on the matter, after which a revised decision may be adopted

Al Rode, an attorney representing appellants, stated that his clients make exception to the Planning Department and Hearing Examiner's decisions.

Mr. Rode indicated that a mitigated non-significance determination is not adequate in this situation. Mr. Rode pointed out that the conditions set forth by the Hearing Examiner specify that other agencies review the project and issue permits, and this is not the purpose of a mitigation determination. Mr. Rode stated that mitigation, under the law, is described as avoiding the impact altogether by not taking action, minimizing impacts by using appropriate technology or taking affirmative steps, rectifying the impact by rehabilitating, reducing or eliminating the impact over time by maintenance, compensating the impact by enhancing substitute resources or monitoring the impact and taking appropriate measures. Therefore, it is Mr. Rode's opinion that the County's determination is inappropriate.

Mr. Rode further stated that he did not feel the County Planning Department considered engineering and public safety in making their determination.

Mr. Rode pointed out that the Hearing Examiner's decision recommended that County Engineering meet with individuals to mitigate concerns, and that this was not made a part of the Planning Department's conditions. From a legal standpoint, Mr. Rode stated that this determination from the Hearing Examiner does not come within the regulations provided for in mitigation by the County.

Mr. Rode stated that under WAC regulations, there are categorical exemptions concerning the impact on the environment. Mr. Rode stated that this project comes way above categorically exempt provisions and that the appellant feels an impact statement is needed. There was sufficient evidence presented that there will be a probable effect on the environment and a study should be done relative to water run off and absorption, public water supply, wells, habitat, environmental health, noise, land and shoreline use, and the movement and circulation of people and goods.

Mr. Rode indicated that the Planning Department in all probability should have required an EIS or substantial mitigation provisions rather than conditioning the project on other agency permitting processes. It was Mr. Rode's opinion that the County would not allow a private citizen to proceed with this type of project without some environmental provisions.

Mr. Rode urged the Board to remand this matter back to the Hearing Examiner or conduct their own hearing.

Commissioner Hart reiterated that this hearing can only consider existing evidence and the question of whether or not the Hearing Examiner considered such evidence properly. Commissioner Hart further stated that he seriously doubts that this road project as designed will be built, and indicated that there is no overwhelming evidence to overrule the Hearing Examiner.

Mr. Rode countered that the clear reason to remand is that the County Planning Department has not complied with SEPA regulations in making a determination of mitigated non-significance. It was Mr. Rode's opinion that the project problems are not taken care of by having other agencies go through their permit procedures.

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Chairman Wolden stated that the scrutiny of the Army Corps of Engineers and the Department of Fish & Wildlife would be quite intense.

Commissioner Hart stated that there are precedents that support these criteria and conditions, and that he does not agree with Mr. Rode's understanding of the issue.

Upon query from the Board, John Moffat, Chief Civil Deputy, stated that the purpose of the MDNS is to put conditions on the project which will mitigate environmental aspects of the proposal so that it is not necessary to go through an entire environmental impact statement.

Mr. Rode restated the purpose of mitigation and that he feels the conditions do not fall within the definition of mitigation. Mr. Rode further stated that other road projects in the immediate area need to be considered together with this project to more accurately reflect the impact to the area as relates to traffic. Mr. Rode stated that substantial testimony was presented that a greater hazard will be prevalent after the improvements are made. It was further noted that the input of the school district and the fire department should be considered.

Bill Wooding, 251 Rosario Road, Anacortes, stated for clarification that the main mitigation matters for consideration were traffic safety and stormwater runoff. Mr. Wooding briefly reviewed the specifics of the runoff problems involving his property.

Chairman Wolden stated that it appears that the sixth condition concerning wetlands disturbance imposed by the Planning Department addresses the issue of runoff and is a requirement of the Hearing Examiner's decision. That condition will have to be met before the project proceeds.

A discussion ensued on this point and the particulars of this condition.

Commissioner Hart agreed with the comments of Chairman Wolden and reiterated that there will be restrictions and/or requirements levied by the various agencies. If the requirements of mitigation are greater than the project is worth, Commissioner Hart indicated that the project would have to be shelved.

Mr. Wooding stated that he believes communication has been poor and there has not been enough public input. Mr. Wooding further stated that everyone in the area would like to see the road improved, but the matter of degree is the question.

Willy Evans, 1328 Rosario Road, stated that she is disappointed that the Hearing Examiner did not fully consider the traffic and noise impacts on the residents.

Bob Bell, 392 Campbell Lake Road, asked that if the DNS had held, would this project have been approved and started?

Chairman Wolden responded that there is an engineer's drawing that has never been accepted or approved by the Board.

Mr. Bell further indicated that the improvements to Rosario Road should be considered in conjunction with the improvements to Campbell Lake Road.

Carol Ehlers, 1356 Windcrest Lane, pointed out a basic flaw in the SEPA process as traffic hazards were not considered.

Commissioner Hart moved to uphold the Hearing Examiner's decision regarding the mitigated determination of non-significance for Rosario Road improvement project. Commissioner Robinson stated that there has been a threshold determination made to mitigate the environmental impact and six conditions have been set that are appropriate, therefore, Commissioner Robinson seconded the motion of Commissioner Hart. The motion passed unanimously. (Resolution to be provided by Staff at a Later Date)

ADJOURNMENT.

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

BOARD OF COUNTY COMMISSIONERS
SKAGIT COUNTY, WASHINGTON





Harvey Wolden, Chairman


Robby Robinson, Commissioner


Robert Hart, Commissioner

ATTEST:


Patti J. Owen, Clerk
Skagit County Board of Commissioners