

RECORD OF THE PROCEEDINGS
SKAGIT COUNTY BOARD OF COMMISSIONERS
Tuesday, December 5, 1995:

- 7:30 a.m. - 8:30 a.m. Commissioners' Staff Meeting.
- Flag Salute.
- 9:00 a.m. - 10:00 a.m. Planning Department - Dave Hough, Director.
- 1) Discussion - Critical Areas Ordinance Process.
- 2) Miscellaneous.
- 10:00 a.m. - 11:00 a.m. Appeal by Washington Department of Fish and Wildlife of Hearing Examiner's Decision Supporting the Appeal of the Town of Concrete Remanding the Mitigated Determination of Non-Significance (MDNS) to the Director of Skagit County Planning for a Project to be located at Lornezan Creek, at the Intersection of Dalles and Grassmere near Concrete (AAP 95013.ORD).
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- 11:00 a.m. - 11:30 a.m. Consideration of Planning Commission Recommendation for Resolution Approving Estates at Summit Park Planned Unit Development (Formerly Known As Eagle Crest) #PUD-95-002.
- 1:30 p.m. - 1:45 p.m. Consideration of Hearing Examiner's Recommendation for Approval of Timber Open Space Application of Philip Vertin for property located on south side of Mosier Road, west of the intersection with Grip Road 94-005).
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- 1:45 p.m. - 2:00 p.m. Consideration of Hearing Examiner's Recommendation for Approval of Timber Open Space Application of Dennis Moyer for property located at 1852 Amick Road, Mount Vernon (OST 94-004).
- 2:00 p.m. - 2:15 p.m. Consideration of Hearing Examiner's Recommendation for Approval of Timber Open Space Application of Erna Munske for property located on the south side of Mosier Road, west of the intersection with Grip Road (OST 94-006).
- 2:15 p.m. - 2:30 p.m. Consideration of Hearing Examiner's Recommendation for Approval of Agricultural Variance for William and Paul Taylor for property located at 592 Cedar Drive, Bow (OST 95-041).

The Skagit County Board of Commissioners met in regular session on Tuesday, December 5, 1995, with Commissioner Robert Hart, Harvey Wolden and Ted W. Anderson were present.

PLANNING DEPARTMENT - Dave Hough, Director.

1. Discussion - Critical Areas Ordinance Process.

Oscar Graham, Planning Department Staff, reported on the progress of the completion of the ordinance referenced above. Mr. Graham reported that the technical process is coming to a conclusion, stating however, that the citizens advisory committee has been suspended, as indications showed that this part of the process was not proceeding. Mr. Graham stated that the "draft" ordinance is ready for review and will be presented to the Planning Commission as a "draft" for their review also.

Mr. Graham reviewed the Wetland issue in regard to the critical areas ordinance. Mr. Graham reported that Planning has made an effort to recognize all perspectives in preparation of this ordinance. Mr. Graham provided the Board with copies of "working" documents, reiterating that these are very rough "draft" copies only.

Mr. Graham explained the critical area element status reports, reviewing the areas of Wetlands - 85% complete, Fish and Wildlife Areas - 90% complete, Aquifer Recharge Areas - 90% complete, Geologically Hazardous Area - 90% complete and Frequently Flooded Areas - 70% complete.

Mr. Graham also reviewed the administrative provisions and stated again that the target date of completion is February 1, 1996.

2. Miscellaneous.

1. Dave Hough presented a Conversion Option Harvest Plan Resolution adopting County Administrative Policies Related to Conversion Option Harvest Plans for Non-Conversion Forest Practice Applications.

Commissioner Anderson made a motion to approve the Resolution as presented. Commissioner Wolden seconded the motion and it passed unanimously. (Resolution #15976).

2. Mr. Hough also provided a brief update on the proposed shooting range.

MISCELLANEOUS.

1. Staff presented a Resolution Calling for Public Hearing to Consider the formation of the Starbird Sewer District.

Commissioner Wolden made a motion to approve the Resolution, as presented. Commissioner Anderson seconded the motion and it passed unanimously. (Resolution #15977).

2. Tom Sheahan, Emergency Management Services, presented an update on the flood damage as of this date.

Appeal by Washington Department of Fish and Wildlife of Hearing Examiner's Decision Supporting the Appeal of the Town of Concrete and Remanding the Mitigated Determination of Non-Significance (MDNS) to the Director of Skagit County Planning for a Project to be located at Lornezan Creek, at the Intersection of Dalles and Grassmere near Concrete (AAP 95013.ORD).

Zoe Pfahl, Planning Staff Shoreline Administrator, reviewed the appeal as referenced above, and stated the conditions requested by the Town of Concrete. Ms. Pfahl mentioned that this issue has been before the Hearing Examiner four times. Ms. Pfahl also reviewed the three options available to the Board.

Oscar Graham, Planning Staff, urged the Board to consider very carefully remanding this back to the Hearing Examiner, as it has been heard four times as mentioned earlier. Mr. Graham briefly reviewed the impact on fish and wildlife in this regard. Mr. Graham stated that the conditions requested by the Town of Concrete could not be implemented on a Planning document. Mr. Graham urged the Board to review the Planning Department's recommendation to deny this appeal.

Neil Wise, Assistant Attorney General representing the Department of Fish & Wildlife in their appeal, illustrated the location of the culvert on Lornezan Creek and the reviewed the proposal of the Department to install a fish type ladder to provide a passage for fish to return upstream. Mr. Wise reviewed the concerns of the Town of Concrete stated that the Town of Concrete's conditions were not likely to be complied with in total. Mr. Wise reviewed the issue of augmentation of natural flows, stating that the department does not consider this a valid concern. Mr. Wise stated that several conditions are out of the Department of Fish and Wildlife's realm and fall under the Department of Ecology venue. Mr. Wise mentioned that this is a cooperative project. Mr. Wise requested that the shoreline permit approval be reinstated and also reviewed the respects of towns and cities statutes in regard to shoreline permits.

Mary Cherberg, City of Concrete Planner, discussed the earlier discussion on augmentation of natural flows, however, Ms. Cherberg recited R.C.W.'s stating that the Department of Fish and Wildlife in fact does have this authority. Ms. Cherberg also stressed the fact that this is the sole water supply to the Town of Concrete and emphasized the seriousness of this issue. Ms. Cherberg reported that it is the Town of Concrete belief that the town has jurisdiction and reviewed the private property rights, water supply, and various other concerns.

A discussion ensued.

Commissioner Wolden discussed whether a decision could be accomplished at this point.

Commissioner Anderson discussed the need for resolution.

Commissioner Wolden asked whether the State could prepare a document in the next 15 days stating that they will not require augmentation, questioning whether the water rights might be difficult to document due to the fact that the Department of Ecology doesn't necessarily have to comply with the Department of Fish and Wildlife.

Commissioner Anderson stated that in order to accomplish the object of fish passage and for the folks of Concrete that a Resolution should be attained without going to court and costing taxpayers unnecessarily.

A councilman from the Town of Concrete, stated that statute states that the Department of Fish and Wildlife is required for augmentation, not the Town of Concrete and expressed concern for the commandeering of water rights. He also discussed the jurisdiction limits of the Town of Concrete.

Mr. Moffat stated that to clarify the earlier references made in regard to this going to court, that this would now require a shoreline permit process.

Commissioner Wolden made a motion for a 30 day extension for continuation of the appeal to assist in resolving this matter. Commissioner Anderson seconded the motion and it passed unanimously.

Consideration of Planning Commission Recommendation for Resolution Approving Estates at Summit Park Planned Unit Development (Formerly Known As Eagle Crest) #PUD-95-002.

Jim Cahill, Associate Planner, reviewed the background of the development as referenced above. Mr. Cahill outlined the options available to the Board.

A discussion ensued in regard to the drainage system and lot size.

Chairman Hart made a motion to approve the preliminary plat as presented. Commissioner Anderson seconded the motion and it passed unanimously. **(Resolution #15978).**

Consideration of Hearing Examiner's Recommendation for Approval of Timber Open Space Application of Phillip Vertin for property located on the south side of Mosier Road, west of the intersection with Grip Road (OST-94-005).

Nancy Nersten, Planning Staff, presented the above, showing the location of the property and briefly reviewing the application.

Commissioner Anderson made a motion to approve the Hearing Examiner's Recommendation, as presented. Commissioner Wolden seconded the motion and it passed unanimously.

Consideration of Hearing Examiner's Recommendation for Approval of Timber Open Space Application of Dennis Moyer for property located at 1852 Amick Road, Mount Vernon (OST 94-004).

Ms. Nersten presented the above application and reviewed the location of the property.

Commissioner Wolden made a motion to approve the Hearing Examiner's Recommendation for Approval of the application. Commissioner Anderson seconded the motion and it passed unanimously.

Consideration of Hearing Examiner's Recommendation for Approval of Timber Open Space Application of Erna Munske for property located on the south side of Mosier Road, west of the intersection with Grip Road (OST 94-006).

Ms. Nersten presented the application for Erna Munske and presented a map illustrating the location of the property.

Commissioner Anderson made a motion to approve the resolution, as presented. Commissioner Wolden seconded the motion and it passed unanimously.

Consideration of Hearing Examiner's Recommendation for Approval of Agricultural Variance for William and Paul Taylor for property located at 592 Cedar Drive, Bow (OST 95-041).

Ms. Nersten reviewed the application for agricultural variance and illustrated by map the location of the property.

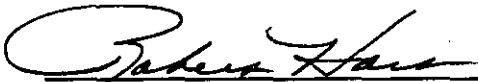
Commissioner Anderson made a motion to approve the resolution, as presented. Chairman Hart seconded the motion. The motion passed unanimously. (Resolution #15982).

ADJOURNMENT:

Chairman Robert Hart made a motion to adjourn the proceedings. Commissioner Wolden seconded the motion and it passed unanimously.

**BOARD OF COMMISSIONERS
SKAGIT COUNTY, WASHINGTON**





Robert Hart, Chairman



Harvey Wolden, Commissioner



Ted W. Anderson, Commissioner

ATTEST.



Debby Sims, Clerk
Skagit County Board of Commissioners