

RECORD OF THE PROCEEDINGS
SKAGIT COUNTY BOARD OF COMMISSIONERS
Tuesday, June 4, 1996

- 7:30 a.m. - 8:30 a.m. Commissioner's Staff Meeting.
Flag Salute.
- 9:00 a.m. - 10:00 a.m. Planning & Permit Center - Roxanne Michael, Director.
1) Discussion - State Disaster Relief Funds.
2) Update - Critical Areas Ordinance Implementation.
3) Discussion - Agriculture Lot Variance and Conservation Easement Procedures.
4) Miscellaneous.
- 10:00 a.m. - 11:00 a.m. Appeal by Rick & Mary Jo Wiseman of the Hearing Examiner's Decision Approving a Special Use Permit Application of Jon & Henrietta Schmidt for Excavation and Sale of Material at 1027 District Line Road, Burlington (SPU-94-034).
- 11:00 a.m. - 11:15 a.m. Consideration of Hearing Examiner's Recommendation for Approval of Timber Open Space Application of Leonard Parks for Property located on Guemes Island at 385 South Shore Road (OST-95-015).
- 11:15 a.m. - 11:30 a.m. Consideration of Hearing Examiner's Recommendation for Denial of Agricultural Variance for Anne Carlson for Property located at 1630 Beaver Marsh Road, Mount Vernon (AG-96-0018).
- 1:00 p.m. - 4:00 p.m. Department Head Meeting (Hearing Room C).

The Skagit County Commissioners met in regular session on Tuesday, June 4, 1996, with Commissioners Harvey Wolden and Robert Hart present. Commissioner Ted W. Anderson absence from this portion of the agenda was excused.

PLANNING & PERMIT CENTER - Roxanne Michael, Director.

1. **Discussion - State Disaster Relief Funds.**

Corey Schmidt, Assistant Building Official, reported that he will be sending a letter of intent applying for disaster relief funds. Mr. Schmidt also reviewed a sample contract that would be developed between the property owner and the state in regard to a volunteer property buy-out program. Commissioner Hart commented that we should assist and use the tools available in order to help people with damaged properties, whether these properties have been permitted in flood zones or not. Mr. Schmidt stated that the federal government is no longer involved in these relief funds. Mr. Schmidt mentioned that other Cities and Counties are looking at buy-out programs and that it might be worth contacting those entities. A discussion ensued in regard to relocating the property owners and Mr. Schmidt stated that this program does not provide alternatives such as finding other sites. Commissioner Hart suggested sending a letter of intent to the State to secure the program and then follow up by researching how many property owners would be interested in this program to make it worthwhile. The Board also discussed requirements in relation to using fill to elevate floodway property and the way this displaces the water. Mr. Schmidt will return to the Board with this letter of intent next week.

2. **Update - Critical Areas Ordinance Implementation.**

Jim Cahill, Planning & Permit Center, presented an update on the Critical Areas Ordinance Implementation. Mr. Cahill reviewed the checklist, which will be available to the Board for review this week. Commissioner Hart suggested that this be extremely user friendly for the applicant. Commissioner Wolden commented that it is critical that this document be understood by staff in order to be used as technical backup.

3. **Discussion - Agriculture Lot Variance and Conservation Easement Procedures.**

Tom Karsh, Planning & Permit Center Assistant Director, indicated that there is an increased interest in conservation easements, due to an adoption of an 1993 Ordinance. Mr. Karsh asked about the concept of allowing ag lots in the ag district that are less than 40 acres in size and the transfer of development rights in the ag district. Mr. Karsh continued a discussion in regard to the original intent of the Ordinance. Bob Rose, Skagitonians to Preserve Farmland, commented on the Ordinance and stated that the confusion is that there are two options available and the issue needs to be addressed to get everyone on the same page.

Travis Martinez, Sedro Woolley, asked about property being divided in order to build relatives homes on that divided property. Mr. Karsh stated that this would be addressed.

Mr. Rose suggested addressing and clarifying the procedure between the variance and the conservation easement.

Commissioner Anderson returned for this portion of the agenda.

The Board agreed that the easement should be incorporated in the ordinance. Mr. Karsh asked whether the variance procedure is appropriate in developing ag lots or whether this should supercede the variance option.

A discussion ensued in regard to family clustering and Mr. Karsh suggested that specific proposals come back to the Board to be addressed individually.

4. Miscellaneous.

1. Mr. Karsh presented a Contract with R. D. & R. Construction for the Edison Subarea Clean Water District project. Commissioner Hart made a motion to approve the Contract. Commissioner Wolden seconded the motion and it passed unanimously. (Contract #02984).
2. Mr. Karsh also discussed the uniform development code and the requirement to address the new codes and terms. Mr. Karsh presented a Personal Services Agreement with McConnell/Burke, Inc. to provide services of rewriting the code.

Commissioner Hart made a motion to approve the Personal Services Agreement in the amount of \$15,000 with McConnell/ Burke, Inc. for the intent of rewriting the county code. Commissioner Wolden seconded the motion and it passed unanimously. (Contract #02985).

Appeal by Rick & Mary Jo Wiseman of the Hearing Examiner's Decision Approving a Special Use Permit Application of Jon & Henrietta Schmidt for Excavation and Sale of Material at 1027 District Line Road, Burlington (SPU-94-034).

Grace Roeder, Permit & Planning, reviewed the options available to the Board as follows:

Brad Furlong, Attorney representing Rick & Mary Jo Wiseman, stated that the Wisemans are adjoining landowners of where the excavation would take place. Mr. Furlong indicated that there is a very long history to this issue. Mr. Furlong clarified that the Wisemans are asking that the permit be denied, but if the permit is granted that, at a minimum, there are some conditions imposed. Mr. Furlong reviewed the fact that the request by Mr. Schmidt was to construct a driveway up a hillside in order to build a home at a site on the top of the hill. Mr. Furlong continued by stating the project would involve blasting the rock free in order to construct this driveway and hauling it off the property. Mr. Furlong announced that the Hearing Examiner did not put any limitation on the duration of the project or a limitation as to how much material could be removed. Mr. Furlong stated that Mr. Schmidt has not requested a building permit nor the other necessary permits to imply that building a residence would even take place. Mr. Furlong suggested that this could very well be a commercial quarry operation since there is no documentation that a house is intended to be built. Mr. Furlong also reviewed the traffic study that shows that the trucks hauling the rock could not safely make turn off of District Line Road onto Cook Road. Mr. Furlong also discussed the noise and intrusion that will be imposed on the adjoining property owners. Mr. Furlong suggested that the noise conditions should be more specific and restrictive. Mr. Furlong also suggested that the applicant himself be responsible for providing someone to monitor the noise levels. One of the other issues cited were that the zoning code has been violated and that the residence is located in ag zoning, however, Mr. Furlong stated that the Hearing Examiner did not consider this issue in making his decision. Mr. Furlong summarized by stating that this project will literally take place in the backyard of a number of residences and could clearly be a commercial quarry operation with excessive noise and intrusion levels. Mr. Furlong again recommended denial of this permit in this regard and reiterated that at a minimum this should be to be sent back to the Hearing Examiner with proper conditions or the Board should impose the conditions themselves.

Louis Requa, Skagit Surveyors & Engineers, the engineer representing Jon & Henrietta Schmidt, stated that the intent of the Schmidts is to build a single family residence at the top of the hill. Mr. Requa stated that the reason of the appeal of the conditions are because of the issues of environment, the duration of project, and the economics. Mr. Requa indicated that there is not an optional route to the top of the hill. Mr. Requa presented a piece of correspondence dated November 17th, although it was determined that this was not listed in the Hearing Examiner's exhibits and therefore, not used in the determination. Mr. Requa stated that he had asked the Hearing Examiner to enter the entire file into the record. John Moffat, Prosecuting Attorney, reviewed the procedures of submitting information to be reviewed by the Hearing Examiner.

Mr Requa discussed the MDNS and the fill and grade process. Mr. Requa presented the Building Use Permit. Mr. Requa stated that the duration of the project has been addressed and presented documents indicating this duration. Mr. Requa stated that the sale of the rock was always intended, the intent of building the driveway was for the construction of the residence and that in regard to the hauling of rock onto Cook Road, it had been addressed by the State and the Hearing examiner. In regard to the noise issue, Mr. Requa pointed out that the bottom of the hill is ag use and pointed out that the contractors would work the same hours as the farmers.

Commissioner Anderson inquired as to the stockpiling of rock and asked where the stockpiling would take place. Mr. Requa illustrated where the stockpiling would take place.

Mr. Furlong discussed the stockpiling issue and reminded the Board that there is a special use permit required by county law for stockpiling the rock and that is why the Hearing Examiner took a long look at this issue. Mr. Furlong indicated by illustration that there is a whole neighborhood at the bottom of this hill, even though there is an amount of land that is ag land. Mr. Furlong addressed the issue of there being no limitations on the duration of this project and that there is no proof that a house will be built at all, stating that this is purely a poor place for a quarry operation with no limitations.

Ken Evans, Attorney for the Schmidts, reviewed the application for the fill and grade two years ago. Mr. Evans stated that this is not a matter of a lifetime of destruction, but that the project could very well be completed in two years. Mr. Evans reviewed the issue of building a residence, stating that if a quarry was intended to be operated they would operate on the existing Department of Natural Resources permit. Mr. Evans suggested sending this back to the Hearing Examiner for reconsideration of items 13 and 15 only. A discussion ensued in regard to getting a determination from legal counsel of whether or not the Board can actually change item 8 when no one has requested this reconsideration.

In the Appeal of Rick & Mary Jo Wiseman, Commissioner Hart made a motion to uphold the Hearing Examiner's decision. Commissioner Wolden seconded the motion and it passed unanimously.

In the Appeal of Jon & Henrietta Schmidt, Commissioner Hart made a motion to uphold the Hearing Examiner on Item No. 13 and to overturn the findings of the Hearing examiner on Item No. 15 and allow stockpiling of quarry rock on the old quarry site with the condition that it be removed in within 180 days of the completion of the project. Commissioner Wolden seconded the motion and it passed unanimously.

Consideration of Hearing Examiner's Recommendation for Approval of Timber Open Space Application of Leonard Parks for Property located on Guemes Island at 385 South Shore Road (OST-95-015).

Grace Roeder presented the above referenced application.

Commissioner Hart made a motion to approve the Timber Open Space Application of Leonard Parks as presented. Commissioner Wolden seconded the motion and it passed unanimously. **(Resolution #16188).**

Consideration of Hearing Examiner's Recommendation for Denial of Agricultural Variance for Anne Carlson for Property located at 1630 Beaver Marsh Road, Mount Vernon (AG-96-0018).

Ms. Roeder presented the above referenced application.

Commissioner Hart made a motion to approve the Denial of Agricultural Variance for Anne Carlson, as presented. Commissioner Wolden seconded the motion and it passed unanimously. **(Resolution #16189).**

MISCELLANEOUS.

1. Staff presented an Earnest Money Purchase Agreement with Smokey Point Mobile Home Brokers, Inc. for the purchase of mobile trailer at the Fairgrounds in the amount of \$15,003.45. Commissioner Hart made a motion to approve the authorization for parks and Recreation for a caretaker's mobile. Commissioner Wolden seconded the motion and it passed unanimously. **(Contract #02986).**

ADJOURNMENT.

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

BOARD OF COMMISSIONERS
SKAGIT COUNTY, WASHINGTON



Ted W Anderson
Ted W. Anderson, Chairman

Harvey Wolden
Harvey Wolden, Commissioner

Robert Hart
Robert Hart, Commissioner

ATTEST.

Debby Sims
Debby Sims, Clerk
Skagit County Board of Commissioners