

**RECORD OF THE PROCEEDINGS
SKAGIT COUNTY BOARD OF COMMISSIONERS
Tuesday, February 15, 2000**

7:30 a.m. – 8:30 a.m.	Commissioners' Staff Meeting.
8:30 a.m. – 9:00 a.m.	Work Session – Planning & Permit Center Work Program.
9:00 a.m. – 10:00 a.m.	Work Session – Prevedell Road Update.
10:00 a.m. – 11:00 a.m.	Work Session – Water Quality Issues.
11:00 a.m. – Noon	Appeal by Gary Frizzell of the Hearing Examiner's Decision Denying a Variance to Allow the Creation of Two Lots that are Smaller than the Specified Minimum Lot Size within the Urban Growth Area for Sedro Woolley (VA99-0498).
1:30 p.m. – 2:00 p.m.	Bid Opening – One New Latest Model All-Wheel Motor Grader.

The Skagit County Board of Commissioners met in regular session on Tuesday, February 15, 2000, with Commissioners Harvey Wolden, Robert Hart, and Ted W. Anderson present.

APPEAL BY GARY FRIZZELL OF THE HEARING EXAMINER'S DECISION DENYING A VARIANCE TO ALLOW THE CREATION OF TWO LOTS THAT ARE SMALLER THAN THE SPECIFIED MINIMUM LOT SIZE WITHIN THE URBAN GROWTH AREA FOR SEDRO WOOLLEY (VA99-0498).

Commissioner Anderson advised that he had spoken with Gordon Hooper about this matter during his office hours in the Concrete Office. At the time Mr. Hooper made the appointment, Commissioner Anderson did not know what the subject of discussion would be. He asked the appellant if this posed a conflict, and should he recuse himself.

Mr. Frizzell indicated that he did not have a problem with Commissioner Anderson hearing this appeal.

Richard Matrass, Planning & Permit Center Staff, reviewed the history of the appeal, and detailed the exact location of the subject property. He advised that the original application was submitted on August 2, 1999 and proposed that a 15,100 square foot lot be divided into two lots. He stated that one lot would be 7,777 square feet and the second lot would be 5,377 square feet. Mr. Matrass advised that the minimum lot size is 8,400 square feet. Mr. Matrass stated that Staff had found that the creation of the lots were not in compliance with the regulations of the City or the County, and that such lot sizes were not within the norm for the area.

Mr. Matrass indicated that the Staff Report on this matter did not recommend approval of the requested variance. However, Staff did list conditions that should be imposed should the Hearing Examiner have elected to approve the variance request. The Hearing Examiner denied the variance, but Mr. Matrass wanted to make the Board aware of the conditions recommended by Staff should the Board develop their own findings and overturn the Hearing Examiner.

Mr. Matrass stated that the Board has the following options:

- (1) After examining the written request for appeal, the Board may deny the request and allow the Examiner's decision to stand;
- (2) Remand the matter for reconsideration by the Hearing Examiner pursuant to Section (15) above; or

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- (3) If the Board believes the Hearing Examiner's decision is not supported by substantial evidence, the Board may adopt its own findings, conclusions and decision based upon the record made before the Hearing Examiner.

Commissioner Hart noted that he had not seen any mention or discussion of the existing Interlocal Agreement with the City of Sedro Woolley requiring a minimum of four lots per acre.

Mr. Karsh explained that the present existing lot is 15,000 square feet. He stated that if Mr. Frizzell were creating new properties, they would be created in a manner in which the densities were less than a quarter acre, pursuant to the Interlocal Agreement mentioned by Commissioner Hart.

Commissioner Anderson indicated that the City of Sedro Woolley has two different zones, and one is zoned considerably less than the required 8,400 square feet.

Mr. Karsh reiterated that in the County's Comprehensive Plan, a minimum lot size of 8,400 square feet had been established through the interlocal agreement with Sedro Woolley for the subject area.

Commissioner Anderson reminded staff that the word "current" had been used several times, but that there is no mention in the Staff Report that this process began back in 1995, prior to Sedro Woolley adopting "current" standards.

Mr. Karsh acknowledged that there have been three different layers of regulations imposed since 1995. He reviewed these different layers of regulation.

Gary Frizzell, 9392 Thresher Avenue, Sedro Woolley, said that upon the Board's review of the files, it should be evident that Sedro Woolley gave him the right to create two lots. He stated that the Hearing Examiner then ruled that Sedro Woolley did not have jurisdiction in this regard, and that the County had jurisdiction. Mr. Frizzell indicated that it seems logical that Sedro Woolley would have some jurisdiction as they will eventually control this urban growth area. He reviewed a map of the area with the Board, showing various lot sizes and similar sizes and usage.

Gordon Hooper, Thresher Avenue, stated that if Mr. Frizzell had properly submitted this matter through the County and City Council, there would have been no problems. He reviewed the particulars of his property, and quoted from his deed which said that a portion of the property is to be used for roadway and utilities. He stated that the bottomline is that Mr. Frizzell wants to create two substandard lots. He indicated that no one approves of this proposal, including the City, County, Hearing Examiner, and neighbors. He commented on the ownership and restricted usage of the cul-de-sac.

Mr. Hooper pointed out that the Hearing Examiner concluded that the City has not granted this size of lot in the area. Mr. Hooper discussed that another neighbor who owned more property had applied for a similar variance and had been denied. He told of another case where access to the sewer was denied in 1995, and that property was located within the City limits.

Mr. Hooper stated that Mr. Frizzell's property is less than 14,000 square feet, and is probably less than 13,000 square feet, once the easements and roadway is deducted. He urged the Board to protect the interests of the neighbors, noting that it is an old neighborhood and everyone has been there for a long time.

Mr. Frizzell stated that Mr. Hooper has no validation for his facts, and is basing his assumptions on hearsay. He stated that his surveyor, Louie Requa, can verify that the cul-de-sac can be figured into the square footage of the property.

Mr. Hooper spoke again to his belief that the right-of-way cannot be counted as part of the square footage of his property.

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Chairman Wolden spoke to the measurement of property for determining the amount of taxes, noting that most people are paying taxes for property to the middle of the street. He indicated that the lots proposed by Mr. Frizzell are consistent with other lots throughout the area.

Commissioner Anderson indicated that this matter has been pending since 1995, and that he reviewed the entire file. He stated that according to the record, the Sedro Woolley City Council voted to allow Mr. Frizzell to divide his lot into two 7,200 square foot lots. Such action was noted in the Minutes of the meeting. As mentioned by Mr. Karsh, the County has been through three layers and changes of regulations since that time. He stated that on neighboring Claybrook, there are some bigger lots, but that the bulk of the lots are 6,400 square feet. He noted that the Growth Management Act says that the cities must take 80% of the growth, and the rural areas only take 20%. Consequently, the city must in-fill to comply with such regulations. Commissioner Anderson stated that Mr. Frizzell has a valid point because in 1995 he could have counted the cul-de-sac in his square footage figures, and the lots created would have exceeded 60-70% of the lot sizes on Claybrook. He stated that if these two lots are created, they would be consistent with the lots in existence on Claybrook.

Commissioner Hart stated that there is some question of vesting when the sewer hook-ups were granted. He indicated that the major change in the proposal is the Growth Management Act, where the County is required to have maximum as well as minimum lot sizes. A part of this process is in-filling within the city limits and that the urban growth areas are developed as the city would be. He indicated that as long as the conditions contained in the Staff Report are included, he could not see a reason for the Hearing Examiner to deny the variance request.

Chairman Wolden spoke regarding the need to be consistent with the City Council's actions of 1995, which Mr. Frizzell relied on. He noted the similarity of the proposed lot sizes to the lots located on Claybrook.

Commissioner Anderson stated that he did not think that justice would be served by short circuiting Mr. Frizzell after five years and after the City granted him lot division. He moved to overturn the Hearing Examiner and incorporate the Staff recommendations from the Staff Report.

John Moffat, Prosecutor's Office, indicated that the Staff report was a recommendation to deny the variance, and if the Board is overturning the Hearing Examiner, they need to indicate their own findings, and how this proposal meets the criteria for the allowance of a variance. Further, the Board needs to indicate that there was not substantial evidence to support the Hearing Examiner's decision on those issues.

Commissioner Anderson restated his motion and moved to overturn the Hearing Examiner and approve the variance request of Gary Frizzell, adding the Staff recommendations and conditions as listed in the Staff Report. He added that the findings should note that this process began in 1995 when current growth management laws were not in effect. Further, that the City of Sedro Woolley authorized Mr. Frizzell to create two lots of 7,200 square feet each, which included utilizing a portion of the cul-de-sac, and conforming with regulations then in effect. The motion was seconded by Commissioner Hart and passed with a unanimous vote. **(Resolution to be provided by Staff at a Later Date)**

BID OPENING – ONE NEW LATEST MODEL ALL-WHEEL MOTOR GRADER.

Steve Cox, ER&R Coordinator, opened the following bids:

Western Power & Equipment
12406 Mukilteo Speedway
Mukilteo, WA
\$159,961.25
Bid Bond Enclosed.

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Smith Tractor & Equipment Co., Inc.
420 E. Hickox Road
Mount Vernon, WA 98273
\$167,909.80
Bid Bond Enclosed

Pacific North Equipment
22431 83rd Avenue So.
Kent, WA 98032
\$157,601.41
Bid Bond Enclosed.

Clyde West
9615 W. Marginal Way South
Seattle, WA 98108
Declined to bid.

Mr. Cox advised that a bid award recommendation would be brought back to the Board shortly.

MISCELLANEOUS.

1. Vouchers audited and certified by the auditing officer as required by R.C.W. 42.24.080, and those expense reimbursement claims certified as required by R.C.W. 42.24.090, have been recorded on a listing, which has been made available to the Board.

As of this date, February 15, 2000, the Board, by a majority vote, did approve for payment those vouchers included in the above-mentioned list and further described as follows:

Warrant number 63759 from Clearing Fund 696 in the total dollar amount of \$600 (Transmittal No. C-13-00).

ADJOURNMENT.

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

**BOARD OF COMMISSIONERS
SKAGIT COUNTY, WASHINGTON**

Harvey Wolden, Chairman

Robert Hart, Commissioner

Ted W. Anderson, Commissioner

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ATTEST:

Patti J. Chambers, Clerk of the Board
Skagit County Board of Commissioners