

**RECORD OF THE PROCEEDINGS  
SKAGIT COUNTY BOARD OF COMMISSIONERS  
TUESDAY, FEBRUARY 25, 2003**

8:30 a.m. – 9:00 a.m. Work Session – Operation Division Manager/District Maintenance Supervisors

- \*T 9:00 a.m. – 10:00 a.m. Public Works Department – Chal Martin, Director
1. Resolution Establishing County Road Project No. 97950-6 – 2003 Gravel Road Conversion Program
  2. Resolution to Restrict Travel Load Limits on the Burlington Northern Sante Fe Overpass Bridge on Old Highway 99 North
  3. Discussion – Skagit Marine Resources Committee Membership
  4. Designation of County Official for Review/Approval of Grant Application for Centennial Clean Water Funds
  5. Discussion – Baker River Dam Relicensing Update
  6. Miscellaneous

- \*T 10:00 a.m. – 11:00 a.m. Planning & Permit Center – Gary Christensen, Interim Director
1. Discussion and Possible Action – Request to Approve an Application From Robin Rushing to Connect to the Samish Water District Sewer Force Main Located on the South Side of Alger-Lake Samish Road
  2. Skagit County Planning Commission Annual Business Meeting Agenda and Update
  3. Discussion and Possible Action – Proposals to Amend the Development Codes Related to Agricultural Processing and Other Agricultural Issues
  4. Miscellaneous

11:00 a.m. – 11:30 a.m. Bid Opening – Equipment Rental

2:00 p.m. – 3:00 p.m. Appeal of the Scheffer Family Special Use Permit (PL00-0699) and the Shoreline Substantial Development Permit (PL01-0857) for the “Island Breeze” Bed and Breakfast

The Skagit County Board of Commissioners met in regular session on Tuesday, February 25, 2003, with Commissioners Kenneth A. Dahlstedt, Ted W. Anderson, and Don Munks present.

**PUBLIC WORKS DEPARTMENT – Chal Martin, Director**

**1. Resolution Establishing County Road Project No. 97950-6 – 2003 Gravel Road Conversion Program.**

Steve Flude, Assistant Engineer, presented a Resolution to establish County Road Project, Cascade River Road No. 97950-6 as part of the 2003 Gravel Road Conversion Project. He provided a picture of the proposed site and indicated that the Cascade River Road is the only road that will be converted from gravel to bituminous surface treatment wearing course in 2003. The cost for the project will total approximately \$53,500.

Commissioner Anderson motioned to approve the Resolution that establishes County Road Project No. 97950-6, the 2003 Gravel Road Conversion Program, as outlined by Mr. Flude. Commissioner Munks seconded the motion, which passed unanimously. **(Resolution No. R20030055)**

**2. Resolution to Restrict Travel Load Limits on the Burlington Northern Sante Fe Overpass Bridge on Old Highway 99 North.**

Mr. Flude next presented a Resolution to restrict travel load limits on the Burlington Northern Sante Fe Overpass Bridge #40111 on Old Highway 99 North. The bridge was load rated and found to be deficient and incapable of supporting certain legal loads. He indicated that the posting of the bridge would be temporary and the sign would be removed when repairs are completed.

Commissioner Anderson moved to approve load limit restrictions as a temporary measure on Old Highway 99 North, Burlington Northern Sante Fe Overpass Bridge until repairs can be completed. Commissioner Munks seconded the motion, which passed unanimously. **(Resolution No. R20030056)**

**3. Discussion – Skagit Marine Resources Committee Membership.**

Ric Boge, Natural Resources Project Manager, said the Skagit Marine Resources Committee is attempting to fill vacancies and the most recent efforts yielded four applicants. Mr. Boge indicated that when Resolution No. 17433 was passed, thereby forming the committee, it didn't specify how many people could be on it.

Commissioner Munks stated that if you have seventeen people interested in serving on the committee, then it makes sense to give approval for that number.

Chairman Dahlstedt said the Board has worked hard to achieve a balance and it is important to make sure that the vast majority of people are being represented. Commissioner Anderson concurred.

Commissioner Munks motioned to approve filling the vacancies on the Skagit Marine Resources Committee with the four following applicants: Lori Kyle, Ken Youngsman, Robert A. Knowles, and Margaret Schwertner. Commissioner Anderson seconded the motion, which passed unanimously.

Mr. Boge also stated that some members of the committee have never been officially appointed. He would like to do this, along with the new appointments, under the next Consent Agenda. Mr. Boge also would like to see the committee members serve for a two-year term.

Commissioner Munks motioned to approve all seventeen members of the committee, as outlined by Mr. Boge. Commissioner Anderson seconded the motion, which passed with a unanimous vote.

**4. Designation of County Official for Review/Approval of Grant Application for Centennial Clean Water Funds.**

Rick Haley, Water Quality Analyst, said the Natural Resources unit of Surface Water Management is working on a Centennial Clean Water Fund grant application to help support an expanded water quality monitoring program, as described in the Draft Ongoing Ag Critical Areas Ordinance. Successful acquisition of this competitive grant could result in significant funding assistance to help with costs associated with an expanded monitoring program. Mr. Haley indicated that the application would be ready for review and signature by late February. The deadline for submittal is March 5, 2003. Due to the fact that the Board will be out of town during this time period, an appropriate County official needs to be designated for review and signature of the final completed application.

Mr. Haley said the estimated annual cost of the trend monitoring program delineated in the Draft Ongoing Ag – CAO is \$130,000 or \$650,000 over the maximum eligible funding period of 5 years. The State would fund 75% and the County would be responsible for funding a 25% match.

Commissioner Anderson motioned to approve the designation of Steve Flude as the County official responsible for review/approval of the grant application for Centennial Clean Water Funds. Commissioner Munks seconded the motion, which passed unanimously.

**5. Discussion – Baker River Dam Relicensing Update.**

Dave Brookings, Public Works Administrator, provided an update on the Baker Dam Relicensing process. He said Public Works has been successful in advancing a study request to evaluate the potential for additional flood storage at the Upper Baker Dam. Public Works is currently coordinating a meeting between Puget Sound Energy (PSE) and Army Corps officials to develop the scope, timeline, and budget for this evaluation.

Chal Martin, Director, asked the Board if they would approve additional money to fund a study regarding additional storage for flood control at the Upper Baker Dam.

Chairman Dahlstedt said it is critically important to protect all citizens of Skagit County from flooding. He stated that the Board totally supports this action. The County needs to remain flexible in the process and if the Army Corps cannot deliver the study in a timely fashion, then steps need to be taken to make sure it's done to meet the required timelines.

**6. Miscellaneous.**

Mr. Martin gave an update on various meetings he has scheduled for the Board while they are in Washington, D.C. attending the 2003 annual NACo conference next week.

**PLANNING & PERMIT CENTER – Gary Christensen, Interim Director**

**1. Discussion and Possible Action – Request to Approve an Application From Robin Rushing to Connect to the Samish Water District Sewer Force Main Located on the South Side of Alger-Lake Samish Road.**

Linda Kuller, Senior Planner, said an application was received from Robin Rushing to connect to the Samish Water District sewer force main located on the south side of Alger-Lake Samish Road. Ms. Rushing proposes to install a private grinder pump station thus requiring the connection. The site address is 1686 Lake Samish Road and the property is located in the Rural Reserve zoning designation.

Commissioner Anderson motioned to recommend the approval of the connection without conditions, as outlined by Ms. Kuller. Commissioner Munks seconded the motion, which passed unanimously.

**2. Skagit County Planning Commission Annual Business Meeting Agenda and Update.**

Gary Christensen, Interim Director, indicated that on February 13, 2003 the Planning and Permit Center staff met with the Planning Commission and conducted an annual business meeting. Agenda topics included review of by-laws and rules of procedures; election of officers; status report on Growth Management Hearings Board issues; and current projects and planning issues. Dave Hughes was elected Chairperson and Carol Ehlers was elected Vice-Chairperson. Mr. Christensen said he will continue to keep the Board apprised of these meetings as they occur. He feels it is a very balanced commission that represents many interests.

**3. Discussion and Possible Action – Proposals to Amend the Development Codes Related to Agricultural Processing and Other Agricultural Issues.**

Mr. Christensen stated that this discussion is a continuation of a meeting that was held on Tuesday, February 18, 2003. During that meeting, the topic of discussion was alternative processes to amend the development regulations for the purpose of clarifying the types of agricultural uses that are permitted in each zoning district and other pertinent agricultural issues.

Mr. Christensen said agricultural preservation is one of the fundamental themes underlying many goals and policies of the Skagit County Comprehensive Plan. However, troubling trends suggest that the economics of farming itself is undergoing significant changes. As a stated public policy, Skagit County

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supports maintaining agriculture as an economically viable industry. To that effort, development codes must be clear in intent and practical. Code revisions are needed to incorporate the basic operational characteristics of agriculture in this community. The current development regulations need to be refined to deal with various issues affecting agricultural operations. He said staff recommends a comprehensive approach involving research, consultation with the Agricultural Advisory Board and a thorough public involvement process, including a public hearing before the Planning Commission

The alternatives as outlined at the last meeting are:

1. Draft an Interim Ordinance making amendments to the Rural Reserve zone, and others, as requested on January 28, 2003 and issue SEPA. Staff recommends that the Board of County Commissioners host a Public Hearing prior to taking action.
2. Draft a comprehensive set of code amendments. This involves research of Hearings Board orders, GMA, Comprehensive Plan policies and goals, consultation with the Agricultural Advisory Board, public notice, SEPA, and hosting a Planning Commission Public Hearing prior to the Board's final action.

After a lengthy discussion, Chairman Dahlstedt directed the Planning and Permit Center to put together an Interim Ordinance amending portions of Skagit County Code and have it ready to present to the Commissioners tomorrow, February 26, 2003 at 8:30 a.m.

**4. Miscellaneous.**

1. Mr. Christensen said the Planning and Permit Center was provided money for professional services, as part of their 2003 budget, which is to be used to cover a number of work program items. With that money, work will continue on capital facilities planning, updating the overall economic development plan, the OFM Countywide Planning Policy Population Forecast, the Shorelines Management Program update, and the 2005 Comprehensive Plan Unified Building Code update. In addition, money has been set aside to work on a Master Plan Resort ordinance. Mr. Christensen indicated that consultations have taken place with organizations in Skagit County that are interested in pursuing the transfer of development rights. A public outreach program will also be implemented to keep the public informed about what is taking place in the Planning and Permit Center.

2. Tom Karsh, Natural Resources Policy Administrator, provided information as to how Skagit County is addressing lot aggregation.

John Moffat, Civil Prosecuting Attorney, noted that from a procedural standpoint, the County did away with its lot aggregation ordinance in 2000, when it adopted the Unified Development Code. New language was adopted and was consequently appealed to the Growth Management Hearings Board. They found the new language regarding the development on substandard lots was not compliant with the Growth Management Act. The County in turn appealed that decision to Superior Court and while it was pending, the County decided to put the lawsuit on hold and enter into settlement negotiations, which have been ongoing for some time. Mr. Moffat said a tentative settlement agreement has been reached on this issue.

Chairman Dahlstedt asked Mr. Moffat how it was decided that the County should enter into settlement negotiations and delay the lawsuit.

Mr. Moffat said that when this matter came before Judge Allendoerfer, he made it clear that if he had to decide on this particular case right then, he would rule against the County. Mr. Moffat took that as a strong directive to pursue some sort of a settlement agreement to resolve the issue in another way besides going through court. Tentative agreements have been reached, as far as language is concerned, in the code. Another issue relating to property owned by Randy Previs in the Anacortes area has been agreed to, as well.

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Chairman Dahlstedt stated that when he sat in on Judge Allendoerfer's decision, the judge said that any land that was zoned for development that the owners decided not to develop, would be subject to the risk of land use changes.

Mr. Karsh then discussed some of the specific provisions of the regulations. He stated that he and staff from the Planning and Permit Center and legal counsel had met with the Board during an executive session to update them on the status of the proposed changes to County code. Those changes affect the zoning ordinance, the land division chapter of the County code, as well as the enforcement chapter. The common subject matter is lot aggregation. Mr. Karsh then proceeded to highlight some of the discussion points of yesterday afternoon's session, primarily in response to the release of a draft version of the amended ordinances that somehow was distributed last week.

The Planning and Permit Center, along with legal counsel, have been negotiating with Friends of Skagit County, Evergreen Islands, the City of Anacortes and private property owners for the past couple of months, based on the encouragement of Superior Court Judge Allendoerfer. Mr. Karsh said the Board will be asked to consider either a permanent ordinance or an interim ordinance, which would make the amendments effective.

Mr. Karsh indicated that the County is currently operating under regulations that have been in place since 1966, which was the first interim zoning ordinance. At that time, it was felt that it was important to address small lots. The ordinance states that if anyone owns or acquires a lot(s) that are substandard in size, per the zoning code, and it/they happen to be contiguous, the County will combine or aggregate those lots to minimize the number of substandard lots. At the time, there wasn't a building code in place, the County didn't adopt the Uniform Building Code until 1968, and the sewage code was rather crude. There were also no SEPA laws or Critical Areas Ordinances so controlling the density of development was very critical in 1966.

In 1969, the State of Washington passed a new section to their state subdivision laws, RCW 58.17.710, which told the counties and cities that they could not issue development permits to any parcels of land that were illegally divided, either under state law or under County codes. Buyers of those lots were placed into a special category that was created and known as "innocent purchaser". It stated that there would be an exemption to the prohibition of not approving development on substandard or illegal lots if an innocent purchaser was involved. The trouble with that was that there was no definition of what an innocent purchaser was.

Mr. Karsh said some of the problems of the current ordinance are that it is difficult to administer, it is difficult for the public to understand, and it is eminently unfair. The Planning and Permit Center requires a lot certification for every development application that is received. During the lot certification process, two affirmative answers need to be given to the following questions: Is the property upon which this development proposed is a lot of record and was it legally created at some point in time? If the answer is no, then the lot cannot be developed. If the answer is yes, then the second question is whether the lot meets aggregation requirements. This can only be determined by the history of ownership. He feels this is unfair and in addition, there are no performance standards for those lots such as whether or not they have adequate water, sewer and/or access. These items are simply not considered. Mr. Karsh added that dealing with innocent purchasers is difficult as there was nothing in the County regulations until July of 2000, which is when the Unified Development Code was put into place. Another major flaw is that there are no disclosure requirements.

The new proposal doesn't entirely eliminate aggregation, however, it minimizes it to a great extent. You can buy and sell substandard size lots as you wish and the County will not combine the properties as stated by law. Therefore, the lot aggregation code as we've known it forever is no longer in existence. If you purchase a substandard lot, it matters not if you own the property next door – the two will not be combined.

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Mr. Karsh said there are of course exceptions to this rule but if you take a look at what is currently in place now, the proposed ordinance is better and the County is moving in the right direction. He then went on to cite a number of those exceptions.

There is an amendment to the innocent purchaser standard, which is the land division code that would add a disclosure requirement. It says that anyone who sells a lot that is substandard would have to acknowledge that the buyer would be notified and the buyer would in turn have to sign off stating that they are aware that it is a substandard lot. They would then be required to go to the Planning and Permit Center to see whether the lot is buildable or not. This prevents the creation of new innocent purchasers. A change to the enforcement section would substantially increase the penalties for violating this portion of the law.

Mr. Karsh indicated that at some point this proposal will be taken before Judge Allendoerfer to see if all parties of the lawsuit are in agreement. If so, it would then be brought back to the Board so they could choose to enact it as an interim ordinance or give it to the Planning Commission for a public hearing process so that some of the finer points of the law could be refined and then become a permanent regulation.

Jones Atterberry, Burlington, said it would be nice to obtain all of the points brought up by Mr. Karsh so that they may be reviewed. Mr. Karsh said he would be happy to meet with any group to better explain the proposal.

Kendall Gentry, Burlington, asked what the term "common interest" means and how it would be enforced. Mr. Karsh said there is no definition of common owners in the code and that might be one of those fine points to work through with the Planning Commission and the real estate development industry to see if it is really an issue or not.

Jim Scott, 18452 Peregrine Lane, Mount Vernon, expressed concerns about disclosure requirements. Mr. Karsh said this is also an area of the proposal that needs to be defined more clearly before it is brought before the Board.

Linda Kuller, Senior Planner, mentioned that there is currently a process in place regarding lot of record certification that will help identify whether or not a person has a substandard lot. She also said that as part of the settlement negotiations, it was decided that more information regarding the public disclosure notice would be available through newspaper advertisements and other public outreach efforts.

Mr. Moffat said that under the current status, the lot aggregation ordinance is in effect, based upon a series of interim ordinances the Board has adopted, dating back to January of 2002. Under the current stipulation in the lawsuit, to make changes to the regulations that the County is operating under, you must go before the court and have them issue an order saying the issue has been settled and based on the settlement, you can go back and take steps to change the law. Mr. Moffat indicated that within the next week or so, a signed stipulation would be sent to the court with the proposed ordinances that the County would be adopting. This will let the judge and other parties to the case know what we are adopting and what they would be signing off on so there aren't any surprises. Once the judge signs the order, the matter would require the Board's formal action. In the Previs situation, the Previs' are party to the lawsuit, however, there is a separate settlement agreement that would be applicable to them. Both agreements go in tandem as they both deal with lot aggregation. Due to the fact that the Previs settlement still needs a few language changes, Mr. Moffat asked the Board if they wanted to authorize him to sign off on the document or want until the Board returns from a conference to review it in its final form. The Board instructed Mr. Moffat to proceed.

Mr. Moffat said the terms of the agreement would be that if the County adopts an ordinance such as this, it would be immune from a challenge by the Growth Management Hearings Board. If the Commissioners were to adopt any other ordinance other than the one that was explained by Mr. Karsh, then that would be going against the judge's order.

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Several realtors in attendance expressed their concerns about not being able to have input on the ordinance if Mr. Moffat proceeded with the settlement agreements.

Mr. Moffat stated that when the proposal comes before the Commissioners as an interim ordinance and is then sent on to the Planning Commission for their consideration as a permanent ordinance, a provision will be made to try and reach some common ground on this issue that everyone can live with.

Commissioner Anderson suggested that this decision be delayed for a couple of weeks to enable the real estate industry to converse with Mr. Karsh and Ms. Kuller. The issue would then come back before the Board to review the language. He feels it is critical to have unanimity before the settlement proposal is given to the court.

This issue will be brought back before the Board for discussion on Tuesday, March 11, 2003 at 10:00 a.m.

**BID OPENING – EQUIPMENT RENTAL.**

Cliff Butler, Public Works, said nine bids had been received for equipment rental to be used for the period April 1, 2003 through March 31, 2003. These bids will allow Skagit County to enter into a contract with vendors whom the County expects to expend over \$25,000 annually with. Attachment “A” shows the bids that were opened.

Mr. Butler said that after careful review, recommendations will be forthcoming.

**MISCELLANEOUS.**

1. Staff presented an emergency Resolution to authorize expenditure of funds to provide necessary repairs due to a beaver dam break that occurred on February 22, 2003 that affected Wood Road, Deer Trails Lane, and other roads and private properties in that vicinity. Commissioner Anderson motioned to approve the emergency Resolution as outlined. Commissioner Munks seconded the motion, which passed unanimously. **(Resolution No. R20030057)**

**APPEAL OF THE SCHEFFER FAMILY SPECIAL USE PERMIT (PL00-0699) AND THE SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT (PL01-0857) FOR THE “ISLAND BREEZE” BED AND BREAKFAST.**

Daniel Downs, Shoreline Administrator, reported that on January 9, 2003, the Skagit County Hearing Examiner approved the Scheffer Family’s Shoreline and Special Use Permit applications to operate a family run bed and breakfast in an existing home. The Appellant claims the Hearing Examiner’s decision would reduce neighboring land values, increase traffic, and increase utility usage at the site. The Appellant also claims that in an April 26, 2000 decision, the Hearing Examiner stated that the residential shoreline revision approved at that time was not intended to function as a basis or as support for any future proposals to change the use of the property to a commercial use.

The application was filed on November 5, 2001. Substantial opposition was registered in writing and at a Public Hearing. On January 24, 2002, the County issued a Mitigated Determination of Non-Significance (MDNS) for this proposal under the State Environmental Policy Act (SEPA). The determination imposed two conditions: 1) The subject proposal shall comply with the Skagit County Shorelines Master Program and the Shoreline Management Act, RCW 90.58; and 2) The applicant shall not allow access to the shoreline by the public. The MDNS was not appealed. In addition to these conditions, Staff recommended that the operation be limited to a maximum of eight guests at any one time and that guest vehicles on the premises be restricted to four.

Opponents argue, in effect, that a commercial development has no place in this particular setting. The mere existence of such a use is seen as a significant alteration of neighborhood character. This position is, however, more spiritual than factual. In fact, the residence in question is located downgrade from Marine Drive and cannot be seen from the road. The property is heavily wooded and of significant size (1.2 acres),

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so that the house cannot readily be seen by the nearest neighbors. The new use will not change in any way the present residential appearance of the house, nor will it be attended by alterations of the lot. The only visible change will be a two -square-foot unlighted sign.

Mr. Downs said in any event, a multiplication of bed and breakfasts in the area is highly improbable. Most of the properties along the shore in the vicinity are subject to protective covenants that prohibit commercial development. The lot in question just happens to be an exception. The Examiner takes note that some of the uses listed as examples of uses that would not change rural residential character are considerably more intensive than the proposed bed and breakfast use. The Hearing Examiner said the Staff Report analyzes the application in light of all the special use criteria and determines that, as conditioned, the proposal would be consistent with them.

A professional traffic impact analysis and safety review for the proposal was prepared by Gibson Traffic Consultants, dated June 10, 2002. The report noted that existing paved parking for ten vehicles would provide for all parking on site without impact to the County road system. The analysis concluded that the bed and breakfast operation would on average only generate the equivalent of eight daily trips more than a typical residence. Of these, only 2 to 3 trips would be PM peak hour trips. The road capacity impact of this level of trip generation was characterized as "minimal and imperceptible" on the County road systems. The traffic report also analyzed the stopping and entering sight distances for access points to the property. The finding was that the distances measured at the site without any vegetation removal were more than adequate to meet established minimums. Though the posted speed is 25 mph, this would remain true even if the roadway operated at 40 mph. There is no persuasive evidence in the record contradicting the professional traffic analysis.

The neighbors to the immediate south raised objections about intrusions on their property caused by lights and potentially by noise. Headlights shine into their house from some points on the applicant's driveway. The record does not show how the proposed change in use will exacerbate this problem. But the applicants are willing to install whatever additional vegetative screening is needed to mitigate the situation.

Mr. Downs indicated that this project has a long history and has been attended by much neighborhood hue and cry. In 1986, a shoreline variance was issued for the placement of a single-family residence on the site at a distance of 25 feet from the ordinary High Water Mark. 1999, the Scheffers were issued a residential shoreline exemption for the remodel of the house into a six bedroom structure. This decision was appealed and then reversed by agreement. A special use permit application sought concurrently for a bed and breakfast was withdrawn. The applicants subsequently applied for a revision to the original shoreline variance permit. This revision was approved by the Hearing Examiner on June 6, 2002, after a Public Hearing. The revision sought a remodel, increasing the bedrooms from three to five and making certain changes to the septic system. At the hearing, the Scheffers asserted that the new bedrooms were for the use of their extended family and they disclaimed any intention to try to open a bed and breakfast.

The Examiner's approval of the structural changes did not authorize commercial activity at the site. He required that any change of use would have to be the subject of a separate application attended by appropriate public notice and public participation procedures. The findings support a conclusion that the proposal, as conditioned, is consistent with the requirements for both a Shoreline Substantial Development Permit and a Special Use Permit for a bed and breakfast. The following conditions should be imposed on the permits:

- (a) The permittee shall provide to the Planning and Permit Center a written approval from Fire District 11 that the improvements called for in the Fire Chief's letter of June 10, 2002, have been made.
- (b) The permittee shall strictly adhere to the proposal as described in the application materials submitted, except as the same may be modified by these conditions.
- (c) The permittee shall comply with the following operational requirements:
  - (1) The bed and breakfast operation shall not house more than eight guests at any one time.

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- (2) Guests will be restricted to one vehicle on the premises per two guests, or a limit of four guest cars at any one time.
- (3) A "No Beach Access" sign shall be posted on the bluff.
- (4) A set of house rules shall be supplied to all new guests, advising them of site use limitations. Such rules shall include notice to the effect that beach access is prohibited, that trespassing is prohibited, and that outdoor activities with the potential for disturbing neighbors shall cease after 10:00 p.m.
- (5) Check in and check out times shall be restricted to between the hours of 7:00 a.m. and 10:00 p.m.
- (d) The permittee shall obtain annual inspections from the County Health Department regarding the food program provided at the facility.
- (e) All fireplaces must meet the fireplace standards specified in WAC 173-433 and the requirements of the Northwest Air Pollution Authority (NWAPA).
- (f) Any permanent lighting installed on the premises shall be shielded or designed so that it is directed away from neighboring residences.
- (g) Additional vegetation shall be planted to screen headlights from shining into the neighbor's house, as approved by the Planning and Permit Center.
- (h) The proposed use shall commence within two years of the effective date hereof or the permit shall become null and void.
- (i) Failure to comply with all conditions may be grounds for revocation of this permit.

John Moffat, Civil Prosecuting Attorney, provided three options that the Board could decide on.

Appellant Al McCrary of 11064 Marine Drive, Anacortes, said his property is two lots north of the proposed bed and breakfast. His comments are taken from recorded data during many meetings, beginning in 1998.

Mr. McCrary claims that proper notice of several meetings that were held, was never given to property owners within 500 feet, as required by statute. He then provided a hand out, which described details of the past history of this issue. Mr. McCrary claims the Hearing Examiner's decision to approve PL01-0699 is erroneous because he has ignored Skagit County Permit procedures and violated his own previously stated "Finding of Fact" and "Conclusions of Law" concerning use of this property. He encouraged the Board to correct this decision.

Julian Sayers, Planning Consultant for the bed and breakfast project, advised the Board that this is not a complex proposal. The Hearing Examiner's report and the findings and conclusions are clear and concise. He went on to highlight some of the same key elements that Mr. Downs alluded to in the Hearing Examiner's report, as well as the Staff report. Mr. Sayers said that in short, this proposal has been subjected to intense scrutiny. Staff approved the Special Use Permit, which was never appealed. The impacts of the bed and breakfast are no more intrusive that the neighborhood itself.

Mr. Downs said that with some of Mr. McCrary's statements, confusion in terminology is to blame for any misunderstandings.

Joel Haggard of Haggard Law Office stated that the Hearing Examiner's decision should be sustained and the appeal denied.

The Board will render their decision on this matter Monday, March 10, 2003 at 9:30 a.m.

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**ADJOURNMENT.**

Commissioner Anderson made a motion to adjourn the proceedings. Commissioner Munks seconded the motion, which passed unanimously.

**BOARD OF COMMISSIONERS  
SKAGIT COUNTY, WASHINGTON**

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Kenneth A. Dahlstedt, Chairman

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Ted W. Anderson, Commissioner

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Don Munks, Commissioner

ATTEST:

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JoAnne Giesbrecht, Clerk of the Board  
Skagit County Board of Commissioners