

**RECORD OF THE PROCEEDINGS
SKAGIT COUNTY BOARD OF COMMISSIONERS
TUESDAY, AUGUST 9, 2005**

- 9:00 a.m. – 10:00 a.m. Closed Record Appeal (PL05-0335) of the Hearing Examiner’s Decision on PL04-0733, Variance Request From the Minimum Lot Size in the Rural Resource-Natural Resource Land Zoning Designation, Submitted by Robert Tiffany
- *T 11:00 a.m. – 11:30 a.m. Presentation – Skagit Watershed Council’s Survey Results on Salmon Recovery Issues
- *T 11:30 a.m. – 12:00 p.m. Public Meeting – Final Plat Approval for Pulley Ridge Binding Site Plan (PL98-0001A), Submitted by the Upper Skagit Indian Tribe

The Skagit County Commissioners met in regular session on Monday, August 9, 2005, with Commissioners Don Munks, Kenneth A. Dahlstedt and Ted W. Anderson present.

CLOSED RECORD APPEAL (PL05-0335) OF THE HEARING EXAMINER’S DECISION ON PL04-0733, VARIANCE REQUEST FROM THE MINIMUM LOT SIZE IN THE RURAL RESOURCE-NATURAL RESOURCE LAND ZONING DESIGNATION, SUBMITTED BY ROBERT TIFFANY.

Grace Roeder, Associate Planner for Skagit County Planning and Development Services, explained that Mailand Frank owns a total of 10.8 acres that is currently zoned Rural Resource-Natural Resource Land, which has a minimum lot size of 40 acres. Ms. Roeder stated that an existing residence is located on the property. The total acreage is comprised of three Lots of Record that were approved in 2003 and 2004 at same time the County was under a Court Ordered aggregation from 2002. Due to each Lot of Record being substandard to the minimum lot size of 40 acres, the parcels were required to be aggregated due to the Court Order.

Ms. Roeder said the variance request before the Hearing Examiner was to allow the creation of two substandard parcels as well as, if the lot size variance were approved, to then not be required to proceed with a Short Plat.

Ms. Roeder referred the Board to a map for clarification of subject parcels. She said that the variance request was to divide the portion of #P-16253 that is north of Cascade Ridge Drive from the balance of the property. Ms. Roeder stated that the justification for the variance request was that Cascade Ridge Drive already “divided” #P-16253 and parcel #P-16253 was boundary adjusted to #P-16277 in 1988. At the time of acquisition by Mr. Frank, the area for the subsequent Cascade Ridge Drive was excluded from the boundary adjustment. Consequently, Mr. Frank was aware that #P-16253 was bisected by an “excepted” area.

Ms. Roeder stated that the Planning Department recommends denial of both variance requests for the following reasons:

- 1) The subject property at a total of 10.8 acres is not the minimum lot size to create two standard sized parcels of 40 acres each. Thus, if the variance were approved, there would be two parcels, each one more substandard than before.
- 2) In 1988, at the time of acquisition, the property owner was aware that an area had been “accepted” from the boundary line adjustment. It is not reasonable to request a variance based on an “excepted” area that was known to be “excepted”. Thus, there are no apparent “special conditions and circumstances” to apply to the request.

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- 3) The zoning designation of Rural Resource-Natural Resource Land was applied in 1996. The previous zoning designation had been Rural Intermediate, with a 2.5 acre minimum lot size. Prior to 1996, the property owner had ample opportunity to subdivide the property through the Short Plat process.
- 4) It was determined by the Department that the literal interpretation of the provisions of the Skagit County Code would not deprive the applicant of rights commonly enjoyed by other parcels in the same district. There are a number of substandard parcels in the immediate vicinity, both larger and smaller than the subject property. It should be noted that although the subject property is substandard, the applicant is not deprived of applying for a Special Use Permit for a variety of uses, or an accessory dwelling unit; or construction of any number of accessory buildings.
- 5) Ms. Roeder explained that based on the above determinations, if the variances were approved, it would confer a special privilege on the applicant.

Ms. Roeder explained that the decision by the Hearing Examiner was based on the above criteria and; therefore, is not erroneous. Skagit County Planning and Development Services are requesting that the Board of County Commissioners uphold the Hearing Examiner's decision of denial for the variance request.

Tom Moser, Attorney, outlined errors made by the Hearing Examiner. He also explained that in 1998 Mr. Frank purchased parcel #P-16253 and Mr. Johnson kept a 60-foot strip. In 1990, the County accepted the 60-feet of property at Cascade Ridge Drive.

Mr. Moser argued that his definition of contiguous land was land adjoining and touching other land regardless of whether or not portions of the parcels have separate assessor's tax numbers and were purchased at different times, lie in different sections, are in different government lots or are separated from each other by private roads to private right-of-ways. Mr. Moser felt the County has failed at applying these policies.

Mr. Moser stated that the purchase of the property and reasonable use had been denied by his client. He also indicated that the land has no commercial value. Mr. Moser requested that the Commissioners uphold the Hearing Examiner's decision.

Commissioner Dahlstedt asked for clarification on the lots purchased by Mr. Frank. He also asked if lot certifications were required in 2004. Mr. Moser said parcels #P-16253 and #P-16277 is one parcel, #P-16274 is one lot, and #P-16275 is one lot on record.

Commissioner Anderson asked for an explanation from Mr. Moser in regards to exhibit A2, the deed signed by Mr. And Mrs. Frank. Mr. Moser responded that it meant that Mr. Johnson contains total legal ownership of the property.

Commissioner Anderson motioned to close the appeal and moved for a decision to be made on Tuesday, August 16, 2005 at 8:30 a.m. Commissioner Anderson seconded the motion, which passed unanimously.

PRESENTATION – SKAGIT WATERSHED COUNCIL'S SURVEY RESULTS ON SALMON RECOVERY ISSUES.

Shirley Solomon, Skagit Watershed Council, presented the annual newsletter and report on the Skagit Watershed Council. Ms. Solomon introduced Stuart Elway of Elway Research, who explained how the survey was conducted on salmon recovery issues. Mr. Elway explained that a telephone survey was taken from approximately 478 random adult households. He said the purpose of the survey was to help the watershed council understand the public's view on what issues they deal with. Mr. Elway explained conclusions that were found during the survey.

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PUBLIC MEETING – FINAL PLAT APPROVAL FOR PULLEY RIDGE BINDING SITE PLAN (PL98-0001A), SUBMITTED BY THE UPPER SKAGIT INDIAN TRIBE.

Marge Swint, Associate Planner, explained Findings of Fact from the Department of Planning and Development Services. She said that the application was submitted on January 5, 1998. At that time the zoning for the subject parcel was Commercial Limited Industrial and Rural and the project is vested to these designations for 5 years from the date of recording of the Binding Site Plan. Ms. Swint also stated that the subject property currently has a zoning and comprehensive plan designation of Rural Freeway Service and Rural Reserve.

Ms. Swint said that several uses have been vested for the site including a gas station/convenience store, fast food establishment, garage, restaurant, day care facility and a motel. She said the gas station/convenience store and espresso stand are currently located on proposed Lot 1.

Ms. Swint went on to say that the subject property is approximately 74 acres in size and is located on the south side of Bow Hill Road, east of the I-5 interchange. The parcel gently slopes to the south with steep slopes on the eastern and western edges and along the southern edge where the slope drops into Bob Smith Creek, forming a ravine. She said the western portion of the property is bordered by Bob Smith Creek; the northern portion of the east property line is bordered by a home site with the rest of the eastern and southern property lines bordered by steep slopes, a dairy farm and pastures. The property to the north is the Tribal casino.

Ms. Swint explained that the Binding Site Plan consists of 10 lots of which nine are situated on the northern 11 acres and are being developed for commercial purposes. Those nine lots range in size from approximately 20,000+ square feet to approximately 94,000 square feet. Lot 10, approximately 63 acres, will remain undeveloped and is where the stormwater facility and wetland mitigation sites will be located.

She also said that all of the lots will be accessed by a private interior road. Lot 1 will also have an access point off of Bow Hill Road. The private road is built to County road standards and starts at the southern intersection of Bow Hill Road and Darrk Lane and runs in a north/south direction. Ms. Swint explained that the subject property will be served by PUD water and public sewer from Samish Water District.

As required by Skagit County Code, a Notice of Development for the initial application was issued in January 1998, a Mitigated Determination of Nonsignificance was issued in April 2003 and a Notice of Development for Final Plat approval was issued in June 2005. She said that no correspondence was received during these comment periods.

Ms. Swint said that the application was reviewed by the appropriate County departments and divisions. She also said that several status letters were sent listing items required for preliminary and final approval. All items identified in these letters have been approved. Ms. Swint stated that all required signatures from the various County departments/divisions have been obtained.

Ms. Swint advised the Board that Skagit County Planning and Development Services recommends approval of the Final Plat for the Pulley Ridge Binding Site Plan (PL98-0001A).

Mr. Harper, representing the Tribe expressed his thanks to the Board for their support.

Commissioner Dahlstedt expressed some concern regarding the monitoring of drainage. Mr. Harper replied that the county has done the steps needed to take care of it.

Commissioner Munks stated that he felt the county had done an excellent job.

Commissioner Dahlstedt moved to approve the Pulley Ridge Binding Site Plan (PL98-0001A), submitted by the upper Skagit Indian Tribe and outlined by Ms. Swint of the Planning Department. Commissioner Anderson seconded the motion, which passed unanimously.

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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, August 9, 2005, the Board by majority vote, did approve for payment those vouchers included in the above-mentioned list and further described as follows:

Warrant number 203214 through 203344 from Clearing Fund 696 in the total dollar amount of \$3,174,706.18 (Transmittal No. C-104-05).

ADJOURNMENT.

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

**BOARD OF COMMISSIONERS
SKAGIT COUNTY, WASHINGTON**

Don Munks, Chairman

Kenneth A. Dahlstedt, Commissioner

Ted W. Anderson, Commissioner

ATTEST:

Melissa Collins, Assistant Clerk of the Board
Skagit County Board of Commissioners