

**RECORD OF THE PROCEEDINGS  
SKAGIT COUNTY BOARD OF COMMISSIONERS  
TUESDAY, AUGUST 16, 2005**

8:30 a.m. – 9:00 a.m.                      Decision – Closed Record Appeal, PL05-0335 of 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 9:00 a.m. – 10:00 a.m.                      Public Works Department – Chal Martin, Director  
1.            To Consider Public Testimony Regarding the Adoption of the Proposed Comprehensive 2006-2011 Six-Year Transportation Improvement Plan (TIP)  
2.            Resolution Adopting Guemes Ferry Fares  
3.            Miscellaneous

10:00 a.m. – 11:00 a.m.                      Closed Record Appeal #PL05-0430, Submitted by Luke Lumina and Thelma Palmer-Lumina of the Hearing Examiner's Decision Approving a Home Based Business II Special Use Permit (PL05-0061) For the Operation of a Medical Consulting and Small Scale Dog Breeding Business

11:00 a.m. – 11:15 a.m.                      Bid Opening – North Fork Skagit River Bridge #40037 Scour Repair Project

11:30 a.m. – 12:00 p.m.                      Closed Record Hearing for Preliminary Plat Approval for the Plat of Trumpeter Heights (PL03-0925), Submitted by Chuck Dralle

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

**DECISION – 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.**

Commissioner Dahlstedt motioned to uphold the Hearing Examiner's Decision and deny the variance request submitted by Robert Tiffany. The motion was seconded by Commissioner Anderson, and passed unanimously. **(A Resolution will be brought forth at a later date)**

**PUBLIC WORKS DEPARTMENT – CHAL MARTIN, DIRECTOR**

**1.            Public Hearing – To Consider Public Testimony Regarding the Adoption of the Proposed Comprehensive 2006-2011 Six-Year Transportation Improvement Plan (TIP).**

Steve Flude, Assistant County Engineer, reviewed the six new projects that are among those being considered for inclusion on the 2006-2011 Six-Year Transportation Improvement Program. They are as follows:

- North Fork Skagit Bridge Rehabilitation
- Old 99N Burlington Northern Santa Fe Overpass Deck Overlay
- Old 99N Samish River Bridge Deck Overlay
- Maple Avenue in La Conner
- SR11/Cook Road Intersection
- SR20 Cook Road Connector Arterial

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- Fruitdale and McGarigle Arterial
- Bridge Modification & Interstate Highway Protection Project, Skagit River

Chairman Munks opened the public hearing. There being no testimony forthcoming, Commissioner Anderson motioned to close the public hearing, which was seconded by Commissioner Dahlstedt. The public hearing was closed.

Commissioner Dahlstedt made a motion to adopt the proposed 2006-2011 Six-Year TIP, as presented by Mr. Flude. Commissioner Anderson seconded the motion, which passed unanimously. **(Resolution No. R200500292)**

**2. Resolution Adopting Guemes Ferry Fares.**

Chal Martin, Public Works Director, submitted a resolution for the Board's signature, which would adopt updated Guemes Island Ferry fares to become effective no later than January 1, 2006. Mr. Martin indicated that administrative errors have occurred in the past and staff wanted to give the proposal one final look prior to adoption.

Commissioner Dahlstedt stated that the Skagit County Board of Commissioners was given rate comparisons on other statewide ferry runs that were shorter than the Guemes Island ferry run. They all contained peak rates in the summertime, except for Whatcom County and Skagit County. Commissioner Dahlstedt said he didn't think it was reasonable to expect everyone to bear the burden of rate increases.

Commissioner Anderson said this plan is fair and equitable as all riders are treated equally and receive discounts if they purchase the frequent user coupons

Chairman Munks asked that frequent user passes for motorcycles, walk-ons, senior citizens and the disabled be available quarterly and semi-annually.

Mr. Flude indicated that the change would be easy to make and that it would actually give the ferry riders more options.

Commissioner Anderson motioned to adopt a resolution incorporating the changes as noted. Chairman Munks seconded the motion, which carried. Commissioner Dahlstedt opposed the adoption. **(A Resolution will be brought forth under a future Consent Agenda)**

**MISCELLANEOUS.**

1. Commissioner Dahlstedt made a motion to approve the Record of the Proceedings for Wednesday, July 27, 2005, Monday, August 8, 2005, and Tuesday, August 9, 2005. Commissioner Anderson seconded the motion, which passed unanimously.
2. 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 16, 2005, the Board by majority vote, did approve for payment those vouchers included in the above-mentioned list and further described as follows:

Warrants numbered 203880 through 203881 from Clearing Fund 696 in the total dollar amount of \$9,400 (Transmittal No. C-108-05).

**CLOSED RECORD APPEAL #PL05-0430, SUBMITTED BY LUKE LUMINA AND THELMA PALMER-LUMINA OF THE HEARING EXAMINER'S DECISION APPROVING A HOME BASED BUSINESS II SPECIAL USE PERMIT (PL05-0061) FOR THE OPERATION OF A MEDICAL CONSULTING AND SMALL SCALE DOG BREEDING BUSINESS.**

Brent Morrow, Senior Planner with the Department of Planning and Development Services, provided the following background/proposal history:

1. On February 2, 2005, the applicant applied for a Home Based Business II Special Use Permit (PL05-0061) for the operation of a medical consulting and small scale dog breeding business.
2. On May 25, 2005, the Hearing Examiner conducted a public hearing to review the proposal.
3. On June 28, 2005, the Hearing Examiner approved the Home Based Business II Special Use Permit, subject to conditions.
4. On July 8, 2005, the appellants, Luke Lumina and Thelma Palmer-Lumina, through their attorney Nancy Durell, filed a timely appeal (PL05-0430) of the Hearing Examiner's Decision.

Mr. Morrow stated that the property is located at 5477 Campbell Lake Road, Anacortes, Washington. It is zoned Rural Reserve zoning/comprehensive plan designated area, as indicated in the Skagit County Comprehensive Plan and associated maps adopted July 24, 2000, and as thereafter amended.

Mr. Morrow said that two items (Exhibit A – Statutory Warranty Deed 842246 and Exhibit B – Quit Claim Deed) were attached to the appeal application. These two items were not exhibited during the open record hearing, and therefore, should not be considered in making the decision in this closed record hearing.

In the basis of appeal discussion, the appellants counsel has indicated that the County, by granting the Special Use Permit, has expanded the use of an access easement, which is inconsistent with its current use, and thus, has made a decision which clearly favors Dr. Rose. Counsel disagrees with the Findings of Fact and Conclusions of Law that the Hearing Examiner has written in his decision and has indicated that when the Special Use Permit was granted, it expanded Dr. Rose's use of the easement inconsistent with its current use, which was for her ingress and egress to the property. Counsel has stated, "In effect, you have converted Dr. Rose's express easement into an implied easement." Counsel further interpreted the width of the access easement that the County should require, indicating that it must be 20 feet wide and paved, and that the County is forcing a taking of the Palmer-Lumina land so as to comply with fire regulations.

The appellants counsel also takes issue with the approval of the proposed use itself and has indicated that her clients will likely suffer decreased property values. She notes that there is the potential for noise to be generated by barking dogs in association with the dog breeding portion of the business and prospective property buyers may not like the health exposure of having patients next door who have infectious and rare diseases. She noted that there will be an increase in the number and types of vehicles accessing the property. She also has discussed issues related to the easement access in terms of who is responsible for maintaining the road, site specific road maintenance, and problems with a gate access to the Rose property.

In summarizing, Mr. Morrow stated that the May 25, 2005, Hearing Examiner open record hearing for the proposed use, the appellants counsel indicates that the 50 public comment letters by patients of Dr. Rose were generated by character witnesses and not in fact witnesses, and therefore, are not material to the issue of operating a medical consulting business from the applicant's property. She further questions the nature of the proposed business and environmental issues related to the operation of a medical business. The appellants counsel requests that the County reverse the decision and deny the permit.

According to Mr. Morrow, the appellants counsel has failed to raise any issues that justify that the Hearing Examiner's decision was clearly erroneous, and that this decision should be overturned. As

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stated by condition #2 of the Hearing Examiner's decision, "The applicant shall demonstrate to the satisfaction of the Fire Marshall that the standards of Section 503 are met." The County Fire Marshall's office has indicated that Dr. Rose will be required to provide a 12 foot wide access to her property that includes turn outs every 300 feet. In applying this condition to the permit, the County has not violated the property rights of the Lumina-Palmer property. Fulfilling the condition of providing access is the responsibility of the applicant in order to meet this particular condition of the Special Use Permit. If the development of the access requires that the applicant get permission from the adjacent land owner who owns the land upon which the access easement crosses their property, it is the responsibility of the applicant to secure the access. If the access condition is not met by the applicant, the proposed business will not have a valid Special Use Permit and the business will not be permitted to operate. As discussed at the hearing, the County will not get involved in civil issues that may arise related to the easement that crosses the Lumina-Palmer property.

Concerning issues related to the proposed use itself, Mr. Morrow said the Special Use Permit has been conditioned appropriately to address potential impacts. Conditions #3 and #4 requires that an approved water supply will be provided. Condition #5 requires that potential noise and light problems will be addressed. Condition #10 insures that traffic generated by the business will not be excessive. Condition #12 insures that the business will not become larger than is permitted by the home based business criteria. Condition #15 insures that failure to comply with any of the conditions may result in permit revocation. The proposed use was reviewed as required by the State Environmental Policy Act (SEPA) and a Determination of Non-Significance was issued.

Mr. Morrow said the appellants counsel has failed to raise any issues that justify that the Hearing Examiner's decision was clearly erroneous, and that this decision should be overturned. Therefore, Planning and Development Services urges the Board to deny the appeal and affirm the decision of the Hearing Examiner.

Commissioner Anderson asked Mr. Morrow a question about the access easement, which Mr. Morrow said has been established and grandfathered in. For clarification purposes, Mr. Morrow also noted that Dr. Rose already has access to her property.

Commissioner Dahlstedt queried Mr. Morrow as to who would be responsible for the required 300 foot turn outs. Mr. Morrow said Mary Rose would be responsible for them and according to Kelly Blaine of the Fire Marshall's office, they are well underway.

Commissioner Anderson motioned to strike Exhibits A and B that were attached to the appeal application but not exhibited during the open record hearing. Commissioner Dahlstedt seconded the motion, which passed.

Commissioner Anderson said that because no party of record is present today to state their case, he motioned to uphold the Hearing Examiner's decision and deny the appeal. The motion was seconded by Commissioner Dahlstedt and passed unanimously. **(A Resolution will be brought forth at a later date)**

**BID OPENING – NORTH FORK SKAGIT RIVER BRIDGE #40037 SCOUR REPAIR PROJECT.**

The following bid was received for the North Fork Skagit River Bridge Scour Repair project, which was opened by Barb Hathaway, Project Engineer, and Kelley Kendrick, Administrative Assistant:

American Civil Constructors West Coast Inc.  
700 South Riverside Drive  
Seattle, WA 98101  
Bid Bond Enclosed  
Addendum No. 1 Acknowledged  
Total Bid Amount: \$593,880

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Ms. Hathaway indicated that the bid would be reviewed and a recommendation would be forthcoming.

**CLOSED RECORD HEARING FOR PRELIMINARY PLAT APPROVAL FOR THE PLAT OF TRUMPETER HEIGHTS (PL03-0925), SUBMITTED BY CHUCK DRALLE.**

Before the closed record hearing regarding Preliminary Plat Approval for the Plat of Trumpeter Heights, Marge Swint, Associate Planner with the Department of Planning and Development Services, asked the County Commissioners to set a date and time for Final Plat Approval for Nookachamp Hills 2B. Ms. Swint noted that she had confirmed with the Clerk of the Board that on Tuesday, August 23, 2005, at 10:00 a.m., time would be available for the Board's signature.

Commissioner Dahlstedt motioned to approve signing the Final Plat for Nookachamp Hills 2B at 10:00 a.m. on Tuesday, August 23, 2005. The motion was seconded by Commissioner Anderson and passed.

Ms. Swint stated that the Preliminary Plat Request for Trumpeter Heights (PL03-0925) is for a ten lot land division for residential development through the Conservation and Reserve Development (CaRD) process. The request is to develop approximately 80 acres located at 12696 Wayward Way in Sedro-Woolley. Ms. Swint continued to explain the Findings of Fact from the Department and indicated that along with the Skagit County Hearing Examiner, Planning and Development Services recommends approval of the Preliminary Plat of Trumpeter Heights as submitted by Chuck Dralle.

Commissioners Anderson and Dahlstedt posed questions about the size of the lots and the length of the road. Commissioner Anderson requested that in the future, the actual Cooperative Road Agreement, including a maintenance component, be attached to the preliminary approval. Ms. Swint agreed and added that in this case, the Cooperative Road Agreement will be attached to the Final Plat Approval.

Commissioner Dahlstedt motioned to approve the Preliminary Plat of Trumpeter Heights, as outlined by Ms. Swint. The motion was seconded by Commissioner Anderson and passed with a unanimous vote.

A motion was made by Commissioner Dahlstedt to close the hearing, which Commissioner Anderson seconded. The hearing was closed.

**ADJOURNMENT.**

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

**BOARD OF COMMISSIONERS  
SKAGIT COUNTY, WASHINGTON**

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Don Munks, Chairman

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Kenneth A. Dahlstedt, Commissioner

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Ted W. Anderson, Commissioner

ATTEST:

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