

BOARD OF MASON COUNTY COMMISSIONERS' PROCEEDINGS

JANUARY 19, 2001

Chairperson Mary Jo Cady called the continuation of the regular meeting to order at 2:06 p.m. Commissioners Herb Baze and Wesley E. Johnson were in attendance.

BUSINESS

HEARING CONT. – FREQUENTLY FLOODED AREAS & FLOOD DAMAGE PREVENTION ORDINANCE

Bob Fink, Lead Planner, explained that the Board held a hearing on Tuesday, January 16, 2001 to take testimony on the draft amendments to the Mason County Flood Damage Prevention Ordinance and to the Frequently Flooded Areas section of the Mason County Resource Ordinance. The hearing was continued to Friday, January 19 and the Prosecuting Attorney's office, Mike Clift, sent a status report to the Growth Management Hearings Board (GMHB) to let them know what the County's current progress was as directed in the Order of the GMHB.

Letters were acknowledged from Skokomish Tribe, Richard Guest, dated January 17, 2001 reiterating the comments stated at the January 16, 2001 public hearing and Martha & Guy Parsons dated January 18, 2001 regarding the Frequently Flooded Areas Section 17.01.090 of the Mason County Resource Ordinance and Mason County Flood Damage Prevention Ordinance. The concern was development in the Skokomish Valley and that the current ordinance will not significantly protect life and property in the frequently flooded areas of Mason County.

Mr. Fink made copies for the Board of the Washington Administrative Code and the Revised Code of Washington references used by Mr. Guest.

The Department of Ecology has a responsibility for reviewing the flood ordinances for the conditions. One was there are certain restrictions for development within the floodway as distinguished from a floodplain. It is within a designated floodway. The other is it meets the minimum requirement of the National Flood Insurance Program and the minimum requirements adopted pursuant to RCW 86.16.031 (8) which requires a public process.

At the suggestion of the Board there were three changes to the staff report (noted on the blue handout) which do not effect the ordinance.

There were five changes to the Flood Damage Prevention Ordinance noted as follows:

Page 6: Definition of "Maximum Allowable Density," added clarification text.

Page 9: Acronyms: Added NRCS to list

Page 13: "Appeal Board" retained reference to Board of County Commissioners.

Page 20: Sec. 5.4-1, first paragraph: reference to new map which incorporates all the areas as regulated by the ordinance as Exhibit D

Page 21: Sec. 5.4-4, first paragraph: added text to clarify standards that apply. New construction and substantial improvement within the detailed study area may be allowed where not otherwise prohibited and in accordance with other County regulations.

Those in attendance reviewed the new map for the Skokomish River/Vance Creek Flood Plan No New Footprint and Conditional Footprint Analysis.

Martha Parsons expressed concern that some of the reports and studies that these maps are based on are as old as 1997. Every time there is high water things change. She was concerned that the mapping may not really be based on what the river is likely to do at this moment in time. The avulsion risk at the Parson property was very high at one time and now it is miniscule.

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The Board questioned if there is an appeal procedure in the ordinance for an individual who wanted to put in a building and did not believe they should be in given designation.

Mr. Fink stated there are a couple types of no new footprint areas. The avulsion risk areas list specific provisions for a study to be done to determine whether they are in or out of a boundary. The 2' elevation is based on the best information available which is very detailed. The mapping isn't exact, partly because it is a 2500 square foot limit to what they can show and there could be a certain degree of error. It is possible for someone to show that the information on which the map was based is inaccurate. The department could make a determination due to an engineer's report or surveyor's report and the permit could be authorized.

In the Resource Ordinance where it discusses mapping the actual conditions on the property are to determine rather than the mapping that may be produced. It is generally thought of in terms of where the wetlands are located and they want to be able to apply the proper regulations to them. With the best available science the County has access to, this is the closest and the best the County can produce.

The Board questioned if an applicant who wanted to build a dwelling that is in an area that is designated as non-buildable, and there are appropriate elevations, would the applicant have to prove the maps are incorrect or just prove that the conditions on which the maps are based do not apply in that specific location. Is the burden of proof that the maps are incorrect or simply prove the applicant could build there because the water doesn't flood there.

Mr. Fink stated that they are subject to a certain amount of change over time. He understood the burden would be on the applicant to show within the no new footprint areas that it would be appropriate they could build.

If they are talking about the floodways, which is one of the references, the County does prohibit new construction within floodways. The Skokomish Valley does not have a designated floodway. There is a large portion of the valley where construction is prohibited. It is a critical area where they do not allow construction over a large portion of it because of the risk involved. There are some areas where construction is allowed.

Mr. Fink referred to Mr. Guest's discussion whether the most restrictive standards apply and whether there could be one dwelling per acre. The language changes proposed would address this issue. The standards in each separate code must be met in order to proceed with development.

The Tribe discussed river diking and it is not specific to this regulation. It was the intent of the County to finish the reconnaissance study. The elevations and protections given to building in the valley are not dependent on the diking system. They are not connected to each other in a regulatory sense.

Warren Dawes raised the concern that any studies, which the County has prepared, will be outdated, as it is a moving target. The studies are dated and it brings it down to a judgement call by the Commissioners in terms of protecting property.

The Board noted that, going back in time, in the Valley most of the homes and buildings were placed on higher ground and as time went by some structures were built on lower ground. Now twenty of those have been bought out. It is difficult to make a judgement and the experience is there must be common sense on where they want to build.

Cmmr. Baze/Johnson moved and seconded to approve and sign the amendments to the Mason County Resource Ordinance Section 17.01.090 and the amendments to the Mason County Flood Damage Prevention Ordinance as amended and presented by staff with the inclusion of the new complete map (Exhibit D). Motion carried unanimously. B-aye; C-aye; J-aye. Resolution No. 5-01 (Exhibit A).

Cmmr. Johnson/Baze moved and seconded to authorize the chair to sign the Findings of Fact as per the discussion today. Motion carried unanimously. B-aye; C-aye; J-aye.

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ADJOURNED

The meeting adjourned at 2:59 p.m. due to no further business.

BOARD OF COUNTY COMMISSIONERS
MASON COUNTY, WASHINGTON

Mary Jo Cady, Chairperson

Herb Baze, Commissioner

Wesley E. Johnson, Commissioner

ATTEST:

Rebecca S. Rogers
Clerk of the Board