

BOARD OF MASON COUNTY COMMISSIONERS' PROCEEDINGS

NOVEMBER 27, 2001

The meeting was called to order at 6:00 p.m. by Chairperson Herb Baze who led the Pledge of Allegiance. Commissioners Wesley Johnson and Bob Holter were in attendance.

APPROVAL OF MINUTES

Cmmr. Holter/Johnson moved and seconded to approve the 11/19/01 briefing minutes as circulated. Motion carried unanimously. B-aye; J-aye; H-aye.

C O R R E S P O N D E N C E

BUREAU OF INDIAN AFFAIRS

The United States Department of the Interior Bureau of Indian Affairs announced they have under consideration an application for acquisition of three tracts of land totaling 17.01 acres to be held in trust for the use and benefit of the Squaxin Island Tribe.

SIDEYARD VARIANCE - KARPPINEN

A letter was received from Kim Karppinen-McFarlane and Scott McFarlane commenting on the Karppinen sideyard variance for a boat lift.

MASON COUNTY EMERGENCY MEDICAL SERVICES ADVISORY COUNCIL

Received a current list of representatives and alternates to the Mason County Emergency Medical Services Advisory Council.

2002 BUDGET & LEVIES

Received a copy of the 2002 budget and levies from: Fire Protection District No. 2 and 6.

DEPARTMENT OF NATURAL RESOURCES – INCOME REPORT

Received a corrected County Income Report for October 2001.

MARY M. KNIGHT SCHOOL

A letter was received from Mary M. Knight School concerning their request to site a portable to be used to expand their library.

B U S I N E S S

LIQUOR LICENSE APPLICATION

Assumption: James & Carol Keever dba Bucks Prairie Store; Applicants: James & Bronwen Peolar; Tradename: Buck's Prairie Stores; Privileges Applied For: Grocery Store – Beer/Wine.

Cmmr. Holter/Johnson moved and seconded to approve the liquor license application for James & Carol Keever dba Bucks Prairie Store. Motion carried unanimously. B-aye; J-aye; H-aye.

SET HEARINGS

The Planning Manager is requesting the Board set hearings to consider amendments to the Mason County regulations. The recommended times are as follows:

Hearing to consider proposed amendments to the Mason County Geologically Hazardous Areas regulations on December 11, 2001 at 10:30 a.m.

Cmmr. Johnson/Holter moved and seconded to set the hearing to consider proposed amendments to the Mason County Geologically Hazardous Areas regulations. Motion carried unanimously. B-aye; J-aye; H-aye.

Hearing to consider proposed amendments to the Mason County Fish and Wildlife Habitat Conservation Areas regulations on December 11, 2001 at 11:15 a.m.

Cmmr. Holter/Johnson moved and seconded to set the hearing to consider the proposed amendments to the Mason County Fish and Wildlife Habitat Conservation Areas regulations on December 11, 2001 at 11:15 a.m. Motion carried unanimously. B-aye; J-aye; H-aye.

**BOARD OF MASON COUNTY COMMISSIONERS' PROCEEDINGS
PAGE 2 – NOVEMBER 26, 2001**

DELETION OF ACCOUNTING/BUDGETARY FUNDS

Ione Siegler, Budget & Finance Director, requested the Board approve the resolution deleting certain accounting/budgetary funds.

Cmmr. Holter/Johnson moved and seconded to approve Resolution No. 126-01 and delete unneeded accounting/budgetary funds as presented. Motion carried unanimously. B-aye; J-aye; H-aye. Resolution No. 126-01 (Exhibit A)

HEARING - Consider an application for preliminary plat approval for the plat of Ironhorse Crossing located in the Belfair Urban Growth Area.

Michael MacSems, Planning, presented the staff report. The proposal is a subdivision with 154 single-family residential lots, in four phases as well as 10 tracts on a 50-acre parcel. The applicant is Ironhorse Crossing LLC. The site is bordered by SR 3, the Navy Railroad, timberland and a municipal well site. The subdivision site sits upland above a newer commercial development, which contains the US Post Office. All lots will be served by the Belfair Water District. The first phase will make use of a community septic system on Tract "A" and the second, third and fourth phases will be dependent on a future Belfair sewer system or other approved off-site systems.

The Planning Department believes the applicant has generally satisfied the criteria necessary to reach a positive Finding of Fact and recommends preliminary approval with the understanding that such approval is conditioned as follows:

1. The applicant and the school district shall enter into a mitigation agreement, which shall provide an as-yet-unspecified-amount- of money per lot to the North Mason School District.
2. An emergency access point shall be established at the north end of Ridgetop Blvd. This EV access point shall be at the cost of the applicants and subject to the approval of the Mason County Fire Marshal, prior to final plat approval of the first division. If the access road cannot conform, special conditions will be placed on any building permit issued on property that is served by a non-conforming access road.
3. A sidewalk meeting APWA specifications shall be established on Ridgetop Blvd between Tract "F" and the western entrance to Tract "B".
4. Divisions II, III, & IV of this project shall not receive Final Plat Approval until they can be serviced by a sanitary sewer system or other approved public or community off-site sewage disposal system.
5. Fire flow is required at 1,000 GPM minimum at 20-PSI residential pressure. Hydrant system is to be in place and serviceable for each division prior to final plat approval for the respective division.
6. Prior to final approval, an Operation and Maintenance Covenant for stormwater facilities shall be completed, notarized, and recorded with the County Auditor's Office. A copy of the recorded Operation and Maintenance Covenants shall be delivered to Public Works for their files.
7. The applicant shall provide dust control throughout construction of the necessary improvements for this proposal. Dust control measures shall include limiting disturbance to needed improvements including phasing of development, and watering of disturbed areas if dust levels become excessive. Long term control of particulate emissions will include permanent restoration of disturbed areas including seeding and landscaping of roadside swales and storm water retention facilities.
8. For the protection of children and pets, a six-foot tall solid board fence shall be constructed along the eastern edge of each division adjacent to the Navy Yard Railway right-of-way, prior to final plat approval of each respective division.
9. A six-foot tall solid board fence shall be constructed along the property line between Division IV and the Cokelett property, prior to final approval of Division IV.
10. Prior to final plat approval a land segregation must occur in order to separate this site from land that lies north of the railway.
11. No lot shall be less than 6,000 square feet in size.
12. Detention ponds sited on slopes will require a geo-technical investigation of the berm soils and a stamped engineer's design.
13. That the results of the Washington State Department of Transportation review of the traffic analysis submitted by the applicant shall be implemented.
14. Copies of Homeowner's Association documents that specify responsibility for the maintenance of open tracts and private roads and facilities shall be approved by, and recorded with, Mason County.
15. The on-site septic systems will be maintained and managed by a public entity or a County approved third party managing entity in order to assure they function as designed.
16. Per Mason County Title 16.20.080, any required improvements for each division that are not in place shall be bonded prior to final plat approval of that division.
17. Mason County retains authority to withhold building permits until all applicable conditions, including a park in Division I, have been met and approved for each respective division.
18. Street lighting shall, at minimum be installed at the intersection of Ridgetop Blvd and Belfair Station. All

BOARD OF MASON COUNTY COMMISSIONERS' PROCEEDINGS
PAGE 3 – NOVEMBER 26, 2001

22. A landscaping plan, which includes street trees, shall be developed at the cost of the applicant. This plan shall obtain the approval of the Mason County Planning Department prior to final approval.
23. One off-street parking spot shall accompany each dwelling unit.
24. All open space tracts shall be owned by, and be the responsibility of, the Ironhorse Crossing Homeowner's Association. Responsibility for maintenance of open space will be spelled out in the covenants of Ironhorse Crossing.
25. Tracts "D" and "C" shall be left in an undisturbed condition.
26. At the request of the Mason County Planning Department, the applicant shall enter into a Development Contract with Mason County, prior to final plat approval.
27. Although these roads are private, the Ironhorse Crossing LLC and the Ironhorse Crossing Homeowners Association shall agree to allow any eventual development of the Cokelett property to the south access over Ridgetop Blvd and Ridgetop Crossing.
28. Any future development on the Cokelett property shall be afforded an opportunity to negotiate a Late Comers Agreement for use of the sanitary sewer lines. Negotiations shall proceed in good faith.
29. The developers of Ironhorse Crossing shall place a No-Protest Limited Improvement District (LID) clause in the final covenants. This clause shall provide that no party to the development, or any successor, will protest inclusion into any sewer system which may be adopted in the future.
30. Maintenance and repair of all community fences shall be the responsibility of the Ironhorse Crossing Homeowners Association. This shall be reflected in final covenants.
31. Maintenance, operation and repair of all street lights shall be the responsibility of the Ironhorse Crossing HomeOwners Association. This shall e reflected in the final covenants.
32. Final plat approval of all divisions or phases must e completed within three years of preliminary approval. However request for one-year extensions are allowed as provided for in Mason County in Mason County Title 16.16.060.c.

Dennis Hanberg, Apex Engineering for Ironhorse Crossing, gave details of the proposed plat. He stated they have been in the process since March and this is the third submittal. An essential play and park area is provided, near the center of the project. Their goal is to provide affordable housing in the range of \$140,000 to \$200,000 depending on the location in the plat. The first phase will consist of approximately 50 units. They have proposed dry sewers so it will be prepared for future connection to sewer. They have engineered the stormwater system so the water doesn't leave the property at a higher rate than it would in its natural condition. They find the majority of the conditions satisfactory. With regard to Condition 9, an additional fence was requested from the Cokelets, he is hoping for clarification that the fence is from the top of the bank back and that they would not have to fence the steep area over the hill.

Mr. Hanberg stated they do have concerns with Condition 13, the Washington State Department of Transportation review of the traffic analysis. They have submitted one traffic analysis and DOT has asked for additional information. Their concern on this condition is that it is taking the authority away from the County and giving it to DOT. He stated that sometimes DOT conditions can be in conflict with the requirements of the County and they can also be excessive. He pointed out there has been other growth in the same area that has not had those type of conditions applied. One of the things that will be addressed in the traffic study is a traffic signal. They have no objections to a fair-share contribution if a traffic signal is warranted but they find it difficult to pay for the entire traffic signal if the existing commercial development has already tripped that need. They are asking for a revision to the proposed Condition 13 as follows "That the results of the Washington State Department of Transportation review of the traffic analysis be reviewed by Mason County and that the county develop conditions that they determine should be completed by the applicant. In the event that improvements are warranted, the applicant shall pay its proportionate share based on trips generated from the project. Proportionate share payments shall be made at the recording of the final plat of each phase of the project."

Mr. Hanberg also voiced concern with Condition 26. It has to do with entering into a Development Contract however they have not been provided information as to what the Development Contract is and what it provides.

Cmmr. Johnson asked if the water lines would be going under the railroad tracks.

Mr. Hanberg replied yes and the Belfair Water District has already submitted their application to the Navy and they intend to bore under the railroad tracks for the water line. He doesn't anticipate any problems with approval of that process.

Cmmr. Johnson asked if the park is in Division 1.

Mr. Hanberg responded yes, and the goal is to develop that track with a 6:1 side slope so it would hold water in the winter but would be available for a playground in the summer.

BOARD OF MASON COUNTY COMMISSIONERS' PROCEEDINGS
PAGE 4 – NOVEMBER 26, 2001

Mr. MacSems' understanding is that this project does not require an access permit from the state. The county is looking at it as though there will be some impact to that intersection from this proposal and the county wants the state on board as far as the best way to mitigate the impact. He didn't attend the meeting where it was decided to leave the condition as it is.

Cmmr. Johnon asked for Mr. MacSems' comments on the proposed revisions to condition 13.

Mr. MacSems stated his Director (Ron Henrickson) would prefer to keep the current language.

Neil Nogler asked about the lot size.

Mr. Hanberg responded that it is 4.8 units per acre if you count the developed part of the project, it is 3 units per acre if you calculate the open space.

Edward Cokelet stated the proposed plat abuts his family's property on the north side along a 1,242 foot long property line. He submitted a letter outlining the five concerns they have with the proposal. They would like the property line to be resurveyed by a Licensed Land Surveyor at the expense of the Ironhorse Crossing developers and that permanent monuments be placed there. They have concerns with trespassers and they would like the property line fenced at Ironhorse Crossing's expense. They would like Tract D and C landscaped to buffer their property. They also have concerns with stormwater runoff and asked that special attention be paid to this issue. They also requested that a groundwater study specifically addressing groundwater extraction and sewage runoff be undertaken and reasonable proof presented of no adverse effects before the preliminary approval of the plat.

Steve Clayton stated he is not opposed to this project however he does have some concerns. He stated pedestrian/bike access to the downtown core is not provided for as required in the Comp Plan. He believes access to the site should be controlled by a traffic signal on Hwy 3 and it should be a shared expense but paid up front. He noted there is no stormwater management plan for the lower section of the new road. He also believes there should be a transit facility in the complex. He pointed out there is no looped access in the initial design phases.

Cmmr. Johnson clarified that a previous letter Mr. Clayton had written had nine concerns, then there was a second letter dated November 26, 2001 with four concerns.

Mr. Clayton explained that he presented the original nine concerns to the Planning Commission and a number of them were addressed so he now has the four remaining concerns. He noted the Belfair Subarea Planning Group was not consulted on this project.

Constance Ibsen referred to Condition #14, Copies of the Homeowner's Association documents, she asked if there will be design standards in the homeowners documents. She asked if manufactured homes will be allowed.

Applicant answered no.

Ms. Ibsen asked about parking.

Applicant answered it is essentially the driveway.

Ms. Ibsen asked Chief Greene, FPD #2, if there are 40 foot wide roads and there is parking on both sides, is that adequate for emergency vehicles.

Chief Greene responded that was adequate.

Ms. Ibsen expressed concern with County liability if anybody got hurt on the railroad tracks. She would like a more substantial fence than a six-foot fence.

David Overton, applicant, addressed some past agreements they have had. He referred to Ace Paving, 5 C's Partnership, who developed the lower plat and they have entered into an agreement that deals with stormwater off the road. They have also entered into an agreement for maintenance and cost sharing for the existing road that they constructed and the eventual building of a light there. He stated their concern with the County passing on their responsibility to the state, is that it may not require some of the things that are in the Belfair Village Plan and they hope the County would retain it's first position. They do not expect the County to modify any of the state recommendations that would put it in to conflict with the state. In their agreement with 5 C's it states they will pay their "fair share" of a traffic signal when it is triggered. He submitted a copy of a section of an agreement with 5 C's regarding the traffic signal.

**BOARD OF MASON COUNTY COMMISSIONERS' PROCEEDINGS
PAGE 5 – NOVEMBER 26, 2001**

worked closely with staff and they would like approval with a language change to Condition 13 regarding the traffic signal.

Darren Nienaber, Deputy Prosecuting Attorney, advised the Board they may want to continue the hearing to consider the testimony and the proposed language changes to condition #13.

Cmmr. Johnson/Holter moved and seconded to close the public hearing and delay a decision until December 4, 2001. Motion carried unanimously. B-aye; J-aye; H-aye.

HEARING – Shoreline Variance – Proposal to site a hydraulic boat lift within the five-foot sideyard setback at Mason Lake. Applicant: Kimberly Karppinen

Rick Mraz, Planning, presented the staff report. The proposal is to site an 11-foot long by 54-inch wide hydraulic boat lift within the five-foot sideyard setback on Mason Lake. This permit is part of a dispute between neighbors concerning property lines and rights. The lots along this portion of the lake had originally been divided providing for 60 feet of waterfront. Due to a court Decree and Judgement on April 22, 1993, Karppinen's adjacent neighbor, Richard Kelly, was awarded 12 feet of Karppinen's waterfront property through adverse possession. Kelly, who owns two lots, now has a total of 132 feet of waterfront while Karppinen has 48 feet. During the period that the property was in legal dispute, Karppinen built a dock 20 feet from the original property line which became eight feet from the property line after the court decision. In 1998, Kelly had a shoreline permit approved for a second dock on his property located five feet from the court decreed property line. After Kelly's dock was constructed, it became more apparent that Karppinen's boat lift existed within the five-foot sideyard setback. Karppinen's waterfront lot is also comprised by a non-conforming grandfathered dock on the other adjacent parcel that encroaches over the waterward property line.

Boat lifts are not specifically addressed in Mason County's Shoreline Master Program and have been allowed without a permit until such time when the program will be updated. When dock permits are issued, they are conditioned that all structures, including boat lifts, must meet the five foot sideyard setback.

This proposal does not meet the Shoreline Master Program variance criteria because it does not prevent the applicant from reasonable use of her property, is not the minimum to gain relief, and the cumulative impact of granting similar requests would be that maximum size of dock structures would be exceeded in many cases that could impede public navigation and the use of shorelines. This proposal is also inconsistent with the Mason County Shoreline Master Program Piers and Docks Chapter Use Regulation #2 that requires five foot setbacks from property lines.

Staff recommends denial of the variance request.

Robert Johnson, attorney for Richard Kelly, stated he reviewed the litigation file. He explained that lots 13 and 14 were purchased in 1962 by the Skogland family, in 1971 Mr. Skogland sold lot 14 to Mr. Kelly and established the boundary line at that time. The other lot was sold to the Weaver family. In 1985 a survey was performed, at the request of Mr. Kelly, and discovered the error. The Weaver's had the opportunity to object to the property line but never did. In 1987, the Weavers turned the property to First Interstate Bank to manage for their trust and in 1990, First Interstate Bank had the land surveyed again, retraced the lines established by the 1985 survey which again showed the encroachment. The property was advertised and sold to the applicant with the deed clearly showing there is the possible boundary line conflict with Richard Kelly. The dock placement was a concern and the hardship is the location of the dock, not the boundary line dispute. He asked that the variance be denied

Scott McFarlane, Kim Karppinen's husband, spoke about the hardship factor. He stated the dock is 16 feet wide, and if you take the center line of the dock and run it to the property, it is within about a foot of the centerline of the property. When the application was made to build the dock, they were aware of the lawsuit so they positioned the dock almost dead center in the existing 60 foot property. Before the litigation was final, they had no idea they would lose as much as 12 feet of property, they figured 6 feet, maximum 8 feet. If that were the case, there would be ample room to leave the boat lift where it is and has been for the last four years. He believes they did not create their own hardship by placement of the dock because they are in the center of their property. He pointed out Mr. Kelly put up a fence down the property line after the litigation was final and he has a shed on the property line.

Kim Karppinen-McFarlane added that Mr. Kelly built his new dock on the 5-foot setback and the fence bows into her property. She stated she is 1.5 feet into the 5-foot setback but on both sides of her, the property owners are up to their property line.

Mr. McFarlane stated the property owners to the south were issued a permit to remodel an existing structure. He stated they tore most of it down and rebuilt the house right on the property line and built a deck. To have access to their deck, they have to walk down the Karppinen-McFarlane property. They do not want to spend the money to

**BOARD OF MASON COUNTY COMMISSIONERS' PROCEEDINGS
PAGE 6 – NOVEMBER 26, 2001**

Cmmr. Baze asked about the status dock to the south that is on their property line.

Mr. Mraz noted that it is actually over the property line and is classified as an existing non-conforming dock that probably predates the SMP, he couldn't find any paperwork that states when it was actually built. They are allowed to repair and maintain it in its existing footprint.

Cmmr. Baze stated he sees many civil problems with the situation that he suspects will go beyond this Board regardless of what direction they take.

Cmmr. Holter stated this has been discussed at great length in briefing and he is sorry for the appearance of unfairness. He noted that Mr. Johnson made it clear that the property was purchased knowing there was a property line dispute. They did ask staff to go back on site to see if there are alternatives and staff discovered there are alternatives and that makes it difficult to rule for the variance.

Mr. McFarlane noted that in King County, out-of-compliance structures can encroach as much as out-of-compliance neighboring structures.

Neil Nogler stated he has owned property at Mason Lake for 40 years and noted that very few people have obtained permits. He stated there is a dock to the south of him that had a hearing and the property owner was ordered to remove the dock and nothing has been done. There is a dock to the north that has been ordered to be removed or repaired and it has never been touched. He asked why someone would ask the County to do anything about the docks when nothing is done.

Mr. Johnson responded that for a neighbor who is complaining, there is a private cause of action under the Shorelines Management Act that provides for attorneys fees and costs of litigation. By denying the permit, the litigation avenue is opened up, both against the County for not enforcing the rules and against the offending property owner.

Cmmr. Holter/Johnson moved and seconded to deny the variance request for SHR2000-00027, the criteria for denial shall be prepared by staff for the Board's signature. Motion carried unanimously. B-aye; J-aye; H-aye.

LEVY ALLOCATION

Cmmr. Baze stated the Board has asked Dixie Smith, Assessor, to present the information with regard to allocation of levies to the taxing districts.

Dixie Smith, Assessor, presented the information on the limits on regular levies. Most taxing districts are authorized by state law to levy a certain rate each year without approval by the voters; these are commonly referred to as regular levies. In the aggregate, maximum local regular levies total \$5.90 and, with the state levy, regular levies cannot exceed \$9.50 (\$5.90 and \$3.60) per \$1,000 of assessed value (RCW 84.52.043). The aggregate levies of junior taxing districts and senior taxing districts, other than the state, shall not exceed \$5.90 per \$1,000 of assessed valuations. The term "junior taxing districts" includes all taxing districts other than state, counties, road districts, cities, towns, port districts, and public utility districts. The limitation does not apply to: (a) Levies at rates provided by existing law by or for an port or public utility district; (b) excess property tax levies authorized in Article VII, section 2 of the State Constitution; (c) levies for acquiring conservation futures; and (d) levies for emergency medical care or emergency medical services. The limit only applies if all districts were able to levy their maximum amounts.

When this situation occurs, the rates must be prorated among the districts, according to a statutory mechanism for reducing junior district rates.

She presented the details that show the levy rate for Fire District #2 is proposed, at this time, to be prorated at \$1.20645 in order to meet the \$5.90 limit. She noted there are three fire districts that are being prorated at this time. She stated they may want to consider a benefit assessment. There is also the option of a "lid lift" that would have to be approved by the voters. She noted that before Referendum 47 passed, the levy rate would have been \$1.01.

Ms. Smith explained the benefit assessment tax would have to be approved by the voters, it is a six year benefit assessment and it limits the fire district to \$1 per \$1,000 of valuation plus the benefit assessment.

A benefit assessment has to have at least 60% approval.

Kelley McIntosh, FPD #2, asked for the Board's consideration in that these are emergency essential services.

BOARD OF MASON COUNTY COMMISSIONERS' PROCEEDINGS
PAGE 7 – NOVEMBER 26, 2001

Chief Greene expressed appreciation for the County's cooperation and he hopes they can work together. He stressed the people need to understand the issues so the benefit assessment can be approved.

Both Cmmr. Johnson and Baze expressed support for the fire districts and will do what they can.

Cmmr. Holter stated that consolidation of services may have to considered at all levels of government.

Chief Greene stated that part of their master plan is to avoid duplication and improve efficiency. He acknowledged that is what the voters are demanding. He thanked Dixie Smith for all her help.

PUBLIC COMMENTS

Neil Nogler, Democratic Party Chair, asked about the Board's open meetings. He confirmed that the Board encourages public comments from any citizen on any subject that involves the Board during their meetings.

John Komen, Mason Lake Drive, submitted a report of analysis of briefing minutes. He would like the same format followed as is for the regular business meetings with the clerk taking notes and making an audio recording.

Dave Wood expressed dismay with an article in the *Mason County Journal* about the Board not allowing public comment during a public meeting.

Ed Johnston, Island Lake Drive, submitted a copy of an article on real estate excise tax and noted the Board still has time to change their mind.

Constance Ibsen, Union, commented that the Board stated they are meeting separately with the Public Works Director and she hopes this does not become a pattern that would replace the normal briefing session.

ADJOURN

The meeting adjourned at 8:22 p.m.

BOARD OF COUNTY COMMISSIONERS
MASON COUNTY, WASHINGTON

Herb Baze, Chairperson

Wesley E. Johnson, Commissioner

Bob Holter, Commissioner

ATTEST:

Rebecca S. Rogers, Clerk of the Board