

BOARD OF MASON COUNTY COMMISSIONERS' PROCEEDINGS

MARCH 9, 2004

1. Call to Order - The meeting was called to order at 9:00 a.m. by Chairperson Wesley E. Johnson.
2. Pledge of Allegiance - The flag salute was led by Chairperson Wesley E. Johnson.
3. Roll Call - Present: Cmmr. Dist. 1 - Herb Baze; Cmmr. Dist. 2 - Wesley E. Johnson; Cmmr. Dist. 3 - Jayni L. Kamin.
4. Approval of Minutes – briefing minutes of February 9, 17 and 23, 2004. - **Cmmr. Kamin/Baze moved and seconded to approve the briefing minutes as noted. Motion carried unanimously. B-aye; J-aye; K-aye.**
5. Board's Calendar for week of March 9 – 16, 2004.
6. Correspondence and Organizational Business
 - 6.1 Correspondence
 - 6.1.1 Transportation Improvement Program -Citizens Advisory Program Applicant: Gale B. McGrath
 - 6.1.2 Comcast Cable Communications, Inc. has given notice of their upcoming changes to the digital channel line-up on or shortly after April 1, 2004.
 - 6.1.3 Lower Hood Canal Watershed Implementation Committee Applications: Don Atkinson, William K. Broughton, Dave Garland, Robert Hager, Jeff Heinis, Jodie Holdcroft, Constance C. Ibsen, Judy Likkel, Dennis Lotts, Michael Madsen, John W. Phillips, Debbie Riley, David Roberts, Charles H.T. (Tom) Springer, Jim Thompson, Phil Wiatrak, Dept. of Ecology, and Clay Wilcox.
 - 6.1.4 Civil Service Commission Applicant: Nicholas Patterson
 - 6.1.5 Letters from: A) Michael W. Gendler to not approve rezone request 02-13A, Manke Lumber Co.; B) Gale Devol asked for serious review and consideration of the Manke Lumber Co. rezone request.
 - 6.1.6 State of Washington Puget Sound Action Team announced the recently opened additional portion of the north shore of Lower Hood Canal for shellfish harvesting.
 - 6.1.7 Ed & Marlene Boutwell Re: New Home on Finch Creek.
7. Open Forum for Citizen Input – Dr. Frank - Jacobs 18681 NE North Shore Drive Tahuya – development in the foothills.
8. Adoption of Agenda – **Cmmr. Baze/Kamin moved and seconded to adopt the agenda. Motion carried unanimously. B-aye; J-aye; K-aye.**
9. Approval of Consent Agenda:
 - 9.1 Approval to appoint the following individuals to serve on the 2004 Transportation Improvement Program Citizens Advisory Program (TIP-CAP): Brian Petersen, Ken Wilson, Ted Smethers, Jack Johnson, Daniel Michener, Drew Noble, Clifford Hall, Mel Williamson, Herb Brehmeyer, Christopher Harper, Joseph Spaulding, Michael Brown, Gale McGrath and Jack Nicklaus. Also appoint the following individuals to serve as alternates in the event a member resigns: Leroy Valley, Harry Martin, Robert Albaugh and Fred Yancey.
 - 9.2 Approval of the interlocal agreement between the City of Shelton and Mason County for Geographic Information System (GIS) Services. Mason County will provide GIS services to the City in order for the City to update its dispatch 911 system. This agreement shall remain in effect until June 30, 2004 and the cost shall not exceed \$40,000 without the prior written consent of the City.
 - 9.3 Approval of the agreement between Mason County and the Economic Development Council to provide the County with economic development services for 2004, not to exceed \$12,500.

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- 9.4 Approval for the ER&R Manager to purchase two new cab and chassis with flatbeds from the Washington State vehicle contract. These will replace two existing vehicles. Approximate cost is \$44,000.
- 9.5 Approval for the Mason County Department of Public Works to negotiate a contract with Perteet Engineering, to provide consultant services for the Belfair Urban Improvements, and authorize the Chairperson of the Board to execute said contract, and any other pertinent documentation.
- 9.6 Approval of Washington State County Road Administration Board certification of road fund expenditures for traffic law enforcement for budget year 2003.
- 9.7 Approval for Public Works to advertise, select, and negotiate a contract with a consultant for the design of the McLane Cove Bridge, CRP 1729, and authorize the Chairperson to execute the Consultant Contract and any other pertinent documentation.
- 9.8 Approval of Supplement Agreement No. 7 to the contract with Skillings-Connolly, Inc. for CRP 1380/1381, Grapeview Loop Road. This extends the contract time for completion from March 31, 2004 to June 30, 2004. The scope of work and payment portions of the contract remain unchanged.
- 9.9 Approval to set a public hearing on Tuesday, April 6, 2004 at 9:30 a.m. to consider a supplemental appropriation to the 2004 budget for the Beards Cove Water Fund in the estimated amount of \$190,000 and the Current Expense fund in the estimated amount of \$1,200. **Resolution No. 18-04 (Exhibit A)**
- 9.10 Approval for the Chairperson to sign the Membership Agreement and Memorandum of Understanding for participation in the Washington Association of Counties Retrospective Rating program for Workers Compensation coverage for the period of April 1, 2004 through March 31, 2005.
- 9.11 Approval of Veterans Assistance Fund applications for: Charles Robson, Jr. - housing \$350.00; Anton Marshall Pugel, Jr. - utilities \$286.26; Thomas J. Roberts - utilities \$381.25 and George Valent - utilities \$91.84, housing \$308.16 for a total of \$1,417.51.
- 9.12 Approval for the Sheriff's Department to post for quotes for two ovens for the Mason County Jail at an approximate cost of \$8,000.

Cmmr. Kamin/Baze moved and seconded to approve the consent agenda as read, except Item 9.5 to be considered separately. Motion carried unanimously. B-aye; J-aye; K-aye.

Constance Ibsen spoke to Consent Item 9.5. She voiced concerns for funding and routes of sewer. She questioned if the Commissioners have determined any general parameters or work products and dollar amounts to be allocated for this fresh look. If the money just will be coming from the county Road Fund or if there will be multiple services in the first phase of the project, such as Community Development/Wastewater Loan or grant. The tracking of multiple resources and expenditures could prove to be challenging. There appears to be a discrepancy between what was presented at the public meetings versus the documents dated December 2003. July 2003 the Board held a meeting with public testimony on utilizing the existing North Bay Wastewater Facility to service the Belfair area with necessary pipes installed. The alignment and new roads could add significant costs and impacts in construction time to this project. She felt that this issue needs to be publicly addressed. She asked that the Community Development Department as project lead or co-lead in this project. Bob Fink and Allan Borden have attended meetings and are knowledgeable about the area and interaction with the community.

Ken VanBuskirk also spoke to Consent Item 9.5. He felt that the consultant is being selected prematurely. The Belfair Sub-Area Plan has not completed the public process before the Planning Advisory Commission or environmental review. The County failed to provide the SubArea Planning group with population allocations. He felt that the proposed densities are unrealistic and greatly inflated. Also there are no maps identifying critical areas in the Belfair UGA. He asked the Board to defer action on this item.

Cmmr. Baze/Kamin moved and seconded to authorize the Public Works to negotiate a contract with Perteet Engineering, to provide consultant services for the Belfair Urban Improvements, and authorize the Chairperson of the Board to execute said contract, and any other pertinent documentation. Motion carried unanimously. B-aye; J-aye; K-aye.

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10. 9:30 a.m. Public Hearings and Items Set for a Certain Time

10.1 Public hearing to review four requests to rezone properties in the Rural Area of Mason County; the rezoning requests are from

10.1.1 John and Margaret Huson – Rezoning Request No. 03-04

Allan Borden, Planner, gave a brief staff report noting that the applicants are requesting 11.35 acres be rezoned from Rural Residential 20 to Belfair UGA. The parcels are located along Old Belfair Highway and the south border is along a portion of the Belfair Urban Growth Area boundary.

The Planning Staff and Planning Advisory Commission recommended denial of the rezoning request.

Dan Holman explained that he represents the Husons. They proceeded with the rezoning request because of the positive feedback from the Planning Staff.

He referred to a map with all the smaller tracts of land surrounding the Husons property. Even though there are low density properties to the west this property is surrounded by parcel sizes that are substantially smaller than the Husons. It is also immediately adjacent to the urban growth area (UGA) boundary. The property also has all services which can be found in the Belfair area (fire flow, water lines, fire station, utilities, etc.) The Husons feel that the property is a good candidate for a rezoning request and that it has met the criteria required in the rezoning application.

Commissioner Johnson asked if the request is to rezone to the Belfair UGA. He questioned how far they are to the UGA boundary.

Mr. Holman answered that the proposal is immediately adjacent to the UGA boundary. To the south it nearly borders it.

Commissioner Kamin asked if the Husons have been involved with the Belfair Urban Growth Subarea Planning Advisory Committee.

Mr. Holman stated he was not aware if they were involved.

Ken VanBuskirk agreed with the staff that the request should be denied. The Huson property sits in the floodplain to the Union River and also sets on top of the aquifer recharge.

Commissioner Kamin/Baze moved and seconded to close the public hearing and delay the decision on the John & Margaret Huson request to rezone 11.35 acres parcel from Rural Residential 20 to the Belfair Urban Growth Area for one week until March 16, 2004, at which time they will announce the decision. Motion carried unanimously. B-aye; J-aye; K-aye.

10.1.2 Manke Lumber Co. – Rezoning Request No. 02-13A

Allan Borden, Planner, gave handouts of letters of comment, Resolution No. 32 and a copy of the Large Lot Subdivision of the Tahuya Estates with notes on it.

Deputy Prosecutor Darren Nienaber asked the Commissioners if they read all the comments before the Planning Advisory Commission for all the rezonings being held.

The Board acknowledged they had read the comments from the PAC.

Mr. Nienaber also noted that in the appearance of fairness doctrine when the

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Commissioners are acting in a quasi-judicial fashion they are not allowed to talk with any outsider with respect to the matters being considered.

Cmmr. Johnson stated that he holds regular monthly meetings in the county. His March meeting was last Thursday in Tahuya. He made it clear to those who were present that he could not discuss the merits of the particular rezone requests, specifically the Manke request.

Cmmr. Baze noted that he received voice mails and emails but did not respond to any.

Allan Borden, Planner, presented the staff report for parcels within group A which includes 3430 acres from RR20 to RR5 because of the existing Tahuya Estates subdivision filed in the Auditor's office in November 1990. The area lies in between Tee Lake on the northern side and Maggie Lake on the southern side. The subdivision created approximately 639 five-acre lots.

Staff concluded that since this large lot subdivision was recorded in 1990 it is an existing division of land which has not been portrayed on the Assessor's maps. A consultant meeting the county in mapping and development densities in the rural area of Mason County in 1999 and 2000 was not aware of the subdivision and mapped the area as very large lots meriting the RR20 designation. The applicant has applied to correct the County's map of development densities based upon this filed large lot subdivision.

The Planning Advisory Commission supports the staff recommendation for approval of the rezone request from RR20 to RR5.

Cmmr. Baze asked when the map was completed and everything was listed as RR20 why didn't the consultant know this was a legal plat.

Mr. Borden noted that when the Assessor's maps are looked at there are no annotations that a subdivision has been recorded on these sections. Kirk Company filed the subdivision and recorded it on the particular properties but did not sell any of the properties. It is the Assessor's office policy to not assign individual parcel numbers to a large lot or recorded survey until the land is sold.

Mr. Nienaber asked if the large lot subdivision Tahuya Estates survey document was filed with the Auditor's office around 1990 as a sectional subdivision and all lots shall have individual on-site sewage systems and domestic water systems approved by Mason County prior to building permit approval.

Mr. Borden stated yes.

Mr. Nienaber asked if it is the Planning Department's position that this was a legal survey filed in 1990.

Mr. Borden responded, yes.

Mr. Nienaber asked how long Mr. Borden has been with Mason County Community Development.

Mr. Borden replied since August 1991.

Mr. Nienaber asked what his job title is.

Mr. Borden noted that he is currently the long range planner.

Mr. Nienaber asked how long he has been in that capacity.

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Mr. Borden stated that he has been there for 3.5 years.

Mr. Nienaber asked what he did before that.

Mr. Borden stated he was a current planner and did permit review of building permits and Resource Ordinance permits.

Mr. Nienaber asked Bob Fink what his job title is.

Mr. Fink noted his job title is Planning Manager.

Mr. Nienaber asked how long he was in that position.

Mr. Fink replied he has been in that capacity for three years.

Mr. Nienaber asked what his educational background is.

Mr. Fink stated that he has a masters degree in rural, regional, and urban planning. AICP is the American Institute of Certified Planners and he is certified. Before working with Mason County he was with Grays Harbor for 4 years and prior to that with the state of Florida/Department of Community Affairs as a planner for 4 years.

Mr. Nienaber asked if it is currently the Planning Department's position that this was a legal large lot subdivision.

Mr. Fink noted that it has been their practice to accept on face value and the papers submitted were legally submitted at the time the county did not regulate or require applications for large lot subdivisions (subdivisions with lots greater than five acres or 128th of a section)

Mr. Nienaber asked that assuming the subdivision is legal and divided down to five acres; it wouldn't matter what the zoning is.

Mr. Fink concurred that the minimum lot size could be 100 acres or five acres. If they are already divided at five acres they can still put large house on each lot regardless of the zoning. The existing regulation allows each existing lot, even though it may be smaller than the current zoning would otherwise require to be entitled to a single family residential development as if it were a conforming size.

Mr. Nienaber asked if he heard of the case with Chelan County where there is a 21 day appeal period for any land use decisions made by the County.

Mr. Fink replied that he might of heard of it.

Mr. Borden mentioned that he received a call from a Manke representative at the end of last week, who indicated that part of the rezone request involved the lots that Kirk Company and now Manke own in Sections 9, 16, and 17. It was noted that they are not owned by Manke Lumber Company, but have been traded to the Department of Natural Resources. It actually would involve approximately 122 lots of the 639 which were estimated to occur in the application. Southern half of Section 9 and the NE NE (320 + 40 = 360) and 320 in 16 and 80 in section 17 which adds up to approximately 700 acres. DNR owns the property and it is primarily in the headwaters of Rendsland Creek.

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Manke Lumber Co - Rezone Request No. 02-13B

Mr. Borden stated that Rezone Request No 02-13B is for multiple locations of parcels from one rezone to another rezone totaling 5100 acres.

The Planning staff recommended to remand the set of rezone requests to a future rezone review. Upon further consideration the Planning Staff supports a recommendation to deny the multiple requests in Rezone Request No. 02-13B as presented. There is inadequate information and the applicant has the burden of proof to indicate why each request needs to be reviewed

The Planning Advisory Commission supports the recommendation of the Planning staff that the Board advise the applicant to submit more information or conditions that changed for each parcel to merit their request.

Harry Rydell, Land Surveyor with Manke Lumber Co., reiterated that some of the parcels have been sold and additionally part of Section 8 which was not part of the Tahuya Estates which also was sold to DNR.

He mentioned that the reason the five acre lots were not separated on the map is they were not taxed separately.

He briefly went over the chronology of events of their application beginning on February 8, 2002 to present. There was no rezone criteria existing at the time of the application. The review by the Planning staff was limited to the Tahuya Estates which was referred to as Request 02-13A and the balance labeled as 02-13B.

The Planning Advisory Commission minutes of 11/3/2003 mentioned that there was a large amount of time required for review. Manke may or may not have additional burden of proof.

Marty Ereth, Skokomish Tribe Habitat Biologist, noted that he has been employed with the tribe since 1992. He stated that he will not be speaking on the legality issue or the process issues, but basically the potential long term impacts that the development of this type may have.

He stated that he has a Bachelor of Science degree from Evergreen State College; and Associate of Applied Science from Peninsula College in 1982; worked for federal agencies of US Fish & Wildlife service; National Parks service; state agencies DNR, and Dept. of Fish & Wildlife.

The Skokomish Tribe has very little information regarding the rezone request of Manke. One area of concern is the critical areas have not been met very well. There are a lot of water typing issues which have not been addressed. Even Tee Lake drains into Rendsland Creek. Fish go into Tee Lake and spawn above the lake.

They are unclear about the SEPA and when the project went through the process how did it not trigger a larger environmental review. How was the determination of non-significance made at that time.

They understand that the area was already platted to 600 five-acre lots in 1990 before Manke acquired the property from the Kirk Company. They understand the Planning Department considers this a mapping error or correction. Some time back in 1990, almost 15 years ago the maps were not changed to reflect the subdivision proposal. Since then the land was managed as commercial forest land. Manke and the Department of Natural Resources agreed to land transactions on the Peninsula which benefitted both forest land owners by locking up ownerships and making management more efficient. They are hoping that Manke wants to remain in the tree growing business for the next 50 years and beyond. The Skokomish people and residents of Mason County are counting on them.

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The Skokomish Tribe is concerned about the changes that could build out of this package would have on Hood Canal and the overtaxed ecosystem. Changes and further fragmentation of forest land and disruption of wildlife habitats, including travel corridors, the proliferation of exempt wells, reducing stream flows, a huge increase of onsite septic systems, poor soils and inadequate drainage; disruption of fish habitat and riparian habitat from development activities and changes in water quality from storm water impacts are some concerns.

The Tribe recommends the proposal be tabled for continued discussion for creative ways to reduce impacts. The Skokomish Tribe would be willing to work with Manke Company to determine where the most sensitive properties are for long term conservation and ecosystem support.

Carol Woods stated that what she was going to say supports what Mr. Ereth was saying, but she wanted to go into a little more detail. She showed some soil from the Tahuya Peninsula (glacial fill which is rather heavy because there is little organic matter). The soil does not absorb much water. It is an unusual kind of soil. It grows rhododendrons and evergreen huckleberry. It doesn't tend to grow lawns. Also, septic systems, there is a variance in the area that the homes would probably qualify for which is the result of having soil that is very porous and thin and then a hardpan layer so the septic goes down and out a whole lot more. In cleared land there is concern that there are not enough plants to pull the nutrients out of the water. Because of the inability to hold water, people who are planning a lawn will more likely put lawn food and other things under the soil to get the grass established. Also, they will need to water a great deal in the summer when it is hot.

The low dissolved oxygen, dead fish and algae blooms in Hood Canal are symptoms of utrophication which is a process whereby excess nutrients get into the soil, the plants take up the nutrients, they proliferate and get too much plant growth and start getting algae and then it starts to die and as they decompose they suck the oxygen out of the water. The fish are dying and the levels of oxygen are down low. If this process continues, the decaying material starts putting out ammonia and hydrogen sulphide, which is the odor of rotten eggs, and could be bad for the local economy.

Cmmr. Kamin asked where Mrs. Woods lives.

Mrs. Woods noted that she lives just north of the area in Dewatto since 1999.

Jim Christen, Port of Tahuya Commissioner, stated that they have put a lot of information together in a short amount of time. He acknowledged that his attorney sent a letter to the Commissioners. They believe that the large lot subdivision filed on November 1990 is invalid. He referred to #4 that notes that the minimum size of the lots is 1/128th of a section. All are supposed to be five acres. This triggers an exemption of having to go through the extra step of going through surveying of bringing everything into the county, having it inspected and approved and then allowed to be filed. In going through the lots on the map many are below five acres in size. He believes this should have gone through the additional process and what was filed is incorrect. This should not have been a large lot subdivision. He did not feel there were any rights legally established by Kirk Company in 1990 and therefore Manke Lumber Co. has no rights based on that. Their position should be weighed on whether they meet the current criteria. He stated he believed they fail to meet 6 out of the 8 criteria.

Even if this proposal were upheld, he did not believe the area would handle the proposed development. The area is not set up for fire, aid, sewers. There is no long range planning. If that many people are put in an area with everything going into the water system the aquifers will get contaminated. They won't recharge because the water will shed off. The Port of Tahuya is not prepared for it. They have started to put together a comprehensive plan of parks which would be positioned on the North Shore

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Road and coming up in trails. If the subdivision goes in and there are 3,000+ people there it will create dangerous situations with pedestrians, land owners, etc.

Brad Carey stated that he lives in the port district of Tahuya in the proposed area. He feels there might be some problems with the Manke rezone request. They also scrambled and pulled together facts. As a business owner for 20 years he wants Mankes to make money but follow the right process and be environmentally responsible. The alleged survey is a large lot subdivision. At some point Mankes acquired information through purchase or trade and, at that point, if they felt they should have had the RR5 they should have said there is a problem that it appears to not be RR5 but rather timberland.

As a member of the County he would like the County to be in compliance with the Growth Management Act because it opens up funding. The Growth Hearings Board is concerned that it appears to be an intentional misleading to not push the issue, but wait until in compliance and then slip it in and let the Growth Hearings Board say that the County is not in compliance any more. The Growth Management Act was designed to prohibit urban sprawl. He stated he spoke with Chris Parsons at the state.

He noted that he has been asked to speak on behalf of the approximately 66 homes within the Shorebrook Community. He sits on the Board and has property on a creek. Last November they had 6" of rain in 24 hours. If the Mankes are allowed to log their property and put single family residence homes it could create a flash flood that could endanger the community down stream. He felt they should have an environmental impact statement before any development occurs.

Jeff Carey presented a letter from his father, Harold Carey, who is a resident of Tahuya. He noted that he has been involved with the Allyn Community Association and working on a comprehensive plan for the community. He also has been involved with the Planning Advisory Commission with respect to the Port of Bremerton and their 20 year plan and runway offset extension. He requested their Rezone Request 02-13A be denied. He felt the PAC and Department of Community Development evaluated the Manke proposal under an incorrect premise in the sense that there was a clerical error. It seems like the communication needs to be improved. He was involved with the development of the Comprehensive Plan in 2000. He referred to the map created by the County in 2000 which went before the Hearings Board and was denied. The County went through the process and came up with a revised map. He felt the county has gone through a zoning process for all the lands within the county. If the rezone request is granted the County will be in violation of the growth management.

Melissa Arias, Attorney representing Jim Christen and some of his neighbors. They feel that the large lot subdivision filed in 1990 is not valid. Mason County had regulations which stated consideration is not given, in determining the size of the lot, those lands lying underneath shorelines or submerged lands. In this subdivision there are several acres of land which is actually platted as lots but lies underneath a lake. It would have taken what would have been an exempt sub plat, which would have not required county review, to a point where it did require county review because the lots are less than five acres. This was potentially known to the applicant because the laws were on the books at the time; however, they did not submit it to the county for review. They went ahead and filed it with the Auditor. By doing this, the County did not make a decision. It merely took a large lot subdivision and put it in the filing system. Had the county made a determination, the decision right or wrong would have vested and they would not be able to stand before the Board and challenge the large lot subdivision. In 1990, no decision was made and therefore the case is not too late for reviewing it to ensure it adequately falls within the guidelines of the County and meets the comprehensive plan. She asked that the County review the subdivision as if it contains lots less than five acres. If the county makes a determination after the hearing that the subdivision was valid, at the time of filing, she did not feel all the criteria were met for approval. Criteria #3 dealing with creating density due to the 639 lots should have further review. She asked that the Board not make a decision and refer it back to the

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County to determine it is not a proper subdivision and has not vested, therefore the applicant has no rights to say it is too late. The County has an opportunity to review to make sure everything is in order and not merely take the statements of the Planning Advisory Commission.

Deputy Prosecutor Darren Nienaber asked if the boundary line adjustment was a ministerial act.

Mrs. Arias responded that there was no ministerial act in merely the Auditor accepting an application. A boundary line adjustment allowed for a permit, which was a decision made, which had the ability once a decision was made to challenge the decision. There is no ability to challenge the Auditor accepting the subdivision.

Mr. Nienaber asked Mr. Fink if the Auditor's office would normally refuse to accept a survey if they were to receive it today.

Bob Fink, Planning Manager, responded that at this time the Auditor's office would notify the Planning Department before accepting a subdivision.

Jeff Davis, Washington State Department of Fish & Wildlife, noted that he supports Marty Ereth's comments on the summary of the impacts of the proposal. They strongly urged the county to make sure there is clarity about where the parcels are located before approving the rezone request. He spoke on behalf of the citizens of Washington State. Eco-tourism in 2002 in the State of Washington which includes bird watching, boating, hunting, and fishing brought in 2.8 billion dollars in the state of Washington.

Also one of their concerns these lots were just put on a map from an office. There was concern about development which may be entirely encumbered by a critical area or buffer which automatically forces the county into a reasonable use exception, variance process, or potentially the property takings.

The Department of Fish & Wildlife would rather see cluster development than five acre parcels, if development is wanted. He did not feel it was economically feasible to run hundreds of miles of roads to each individual parcel, pump in an exempt well, septic system, utilities, etc. He felt that expenses could be lessened by cluster development. They support the Tribe's concerns with groundwater issues and instream flows which has a dramatic impact on fish production.

Darren Nienaber noted if the subdivision at the time it was created was legal; he questioned Ms. Arias if she thought the county would be required to issue building permits as long as all the critical area regulations were met for each of the five acre lots.

Melissa Arias responded, if in fact the subdivision at the time it was created was excluded from review by the state law which allows exclusion of lots over five acres to be reviewed. The county did not have to make any decision. She could not give a definitive answer whether the county would be required to issue building permits on the lots, but believed that the County would be required to issue a building permit that met the current guidelines.

Mr. Nienaber asked if the subdivision was legal would a zoning designation make a difference.

Ms. Arias responded it would be in the best interest, if it was legal, to zone it because there would be no control. If it was not zoned and stayed RR20 and were still allowed to build there may be less control over each lot development because the developer could get around a lot of the requirements on small lots. If the RR5 required different regulations such as regulations for septic, stormwater which are different than RR20 there would be more control if it was rezoned.

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Cmmr. Johnson noted with the announcement that they received today that 122 lots (about 700 acres) are now to DNR which the County was not aware of yesterday. Also, that it is in the Rendsland Creek area. He questioned Mr. Ereth and Jeff Davis if this would lessen their concerns expressed in testimony. It would be approximately 700 acres out of 3400 acres.

It was noted the degree of environmental concerns would be lessened whatever proportion 700 acres out of 3400 acres.

Cmmr. Baze asked Mr. Ereth if they have ever testified in favor of development in Mason County.

Mr. Ereth noted that he generally does not come and give approval of development. He acts not to comment.

Cmmr. Baze noted there has been a lot of testimony regarding the degradation of Hood Canal. The County has been in several meetings with the state to the federal level. They are sensitive to this degradation and are doing everything they can to keep it from failing further. One of the testimonies is that the Washington State Department of Health has just reopened approximately 140 acres of shellfish harvest in this area. Mason County is serious about the environment and keeping things in balance.

Cmmr. Kamin stated it appears what is at issue is the validity of the subdivision which was done in 1990. She questioned, had the Mankes not applied for this rezone request they could still develop it without going in for a rezone.

Mr. Nienaber, responded, yes. There has been a lot of new testimony which was not before the Planning Advisory Commission (PAC). One alternative would be to send it back to the PAC. Another route is to make a decision at a later date after review of the new information.

Chairperson Johnson stressed there has been a lot of discussion on this topic to the Planning Department, Planning Advisory Commission and now the Board. The Board has accumulated and gathered information in order to make the right decision.

The Board felt they need additional time before making a decision.

Cmmr. Baze/Kamin moved and seconded to close the public hearing and remand this back to the Planning Advisory Commission and legal staff with all of the facts and testimony received today and come back with a recommendation. Motion carried unanimously. B-aye; H-aye; J-aye.

RECESS 11:40:40 AM – 11:48:58 am

10.1.3 Douglas Fir Christmas Tree LLC – Withdrawn request

10.1.4 Hofert Family Trust - Rezone Request No. 02-15

Allan Borden, Planner, presented the staff report for the request to rezone from RR20 to RR2.5 for 81.65 acre parcel. The applicant did not meet the comp plan policy designation standards.

The Planning Advisory Commission and Planning Staff concurred to recommend approval from RR20 to RR5 rather than 2.5 as requested by the applicant.

The rezone brought up the fact that there is nothing in the regulations which deals with this kind of situation. It would not be limited to this particular location, but there are other locations in the County where there are plats that don't show up where they need criteria to deal with them.

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The Planning staff's initial review with the applicant revealed there were several old existing plats within the County which were not developed that had configurational lots that likely would not meet the current development standards.

The zoning designation of Rural Residential 5 is the closest they could come with their current comprehensive plan to address this particular case.

John A. Hofert, Applicant, noted that their family has been harvesting Christmas trees from 1930 to 1990. It would be nice if there are a few more jobs here in Mason County. They would like to see their vested rights protected. They want to create a vesting mechanism to recognize the existing platted parcels within Mason County so they can replat and develop those if the owner chooses. He felt that Mason County could benefit from the Clear Lake Tracts. He stated they would work with the County.

Chairperson Johnson asked Mr. Hofert if the RR5 designation was acceptable to the family.

Mr. Hofert responded, the RR5 designation is acceptable, but they would like to go forward and recognize the vesting to a number of lots which are compatible with what the county can live it.

Ed Johnston noted there were a couple of issues which came up that might have some misunderstanding or unfamiliarity of the platting of property when one lot is not sold and the parcels are contained as a platted plat and not shown on the map with the Assessor's office as individual tax parcels. He explained his background is in real estate since the early 1960's. He understood the state law is that when you take a piece of property and plat it if you didn't sell any of the parcels it would stay as one tax parcel until you sold the first parcel. When the first parcel is sold that sets a precedent by the Assessor to assess it at fair market value and numbers are assigned.

Cmmr. Baze noted that what they are trying to establish was how the consultant could have missed this being a divided parcel. The contention was that this was done intentionally.

Mr. Johnston responded that it is easy to have missed that it was a divided parcel. He also spoke to the low dissolved oxygen problem in Hood Canal. He noted that he lived on the Canal since 1942 and has seen that problem off and on in cycles.

Cmmr. Baze/Kamin moved and seconded that the Board of County Commissioners adopt the recommendation of the Planning Advisory Commission on Rezone Request No. 02-15 Hofert Family Trust and adopt a motion to approve the request for parcel number 42135-50-00001 to rezone from Rural Residential 20 to Rural Residential 5, based on the finding that the 57-lot plat existed in 1931 and that the request meets the rezone criteria as a corrective rezone to the Rural Residential 5 zone. Also move to have the chair sign the Findings of Fact for this decision in light of the whole record. Motion carried unanimously. B-aye; J-aye; K-aye.

11. Other Business (Department Heads and Elected Officials)

- 11.1 Approval to set a public hearing on April 6, 2004 at 9:30 a.m. to consider extending Interim Ordinance No. 104-03 to September 17, 2004 which adopted temporary sign regulations for the unincorporated area of Mason County. The Interim Ordinance will expire March 19, 2004, unless extended.

Bob Fink, Planning Manager, recommended the Board adopt an extension to the Interim Ordinance to September 17, 2004 regarding temporary sign regulations. This will allow sufficient time for the sign

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regulations to be looked at in more detail and brought back before the board for final action. Also it was requested the Board set a public hearing to comment on the extension.

Cmmr. Kamin stated the Board has received extensive written comments on the sign ordinance.

Cmmr. Kamin/Baze moved and seconded to extend the effective date of interim Ordinance No. 104-03 until September 17, 2004, and to set a public hearing on this action for 9:30 am on April 6, 2004. Motion carried unanimously. B-aye; J-aye; K-aye.

- 11.2 Announce the decisions on the following rezone requests: Don Huson, Rezone Request 03-03, hearing held February 17, 2004; Marlene Davison/Peste, Rezone Request 02-07, hearing held March 2, 2004 and Merrill & Ring, Rezone Request 02-14, hearing held March 2, 2004.

Marlene Davison/L. Peste Trust - Rezone Request No. 02-07A

Cmmr. Baze/Kamin moved and seconded that the Board of County Commissioners adopt the recommendation of the Department of Community Development on Rezone Request No. 02-07A; Marlene Davison and L. Peste Trust and adopt a motion to deny the rezone for the 39.53 ac parcel as requested in the Shelton area to rezone from Rural Residential 20 to Rural Residential 5. This finding is based upon the facts that the applicant has not met the burden of proof required for the rezone, as stated in the staff report, and that the criteria for the rezone are not met; also, move to have the chair sign the Findings of Fact for this decision. Motion carried unanimously. B-aye; J-aye; K-aye.

Chairperson. Johnson added that on all of the rezone requests it has been a time of real deliberation and discussion on the part of the Planning Department, Planning Advisory Commission and the Board of County Commissioners. In looking at the criteria needed to be utilized to arrive at the decision, it was recognized that there are areas where some improvements can be made. It is the intent of the Board to move forward in looking at the criteria and effect whatever changes may be appropriate to ensure that the requirements of the Growth Management Act are met and economic vitality is ensured and environmental concerns are addressed. At the close of the announcements they will take action to move forward on that.

Marlene Davison/L. Peste Trust - Rezone Request No. 02-07B

Cmmr. Baze/Kamin moved and seconded that the Board of County Commissioners adopt the recommendation of the Department of Community Development on Rezone Request No. 02-07B Marlene Davison and L. Peste Trust and adopt a motion to deny the rezone for the two parcels totaling 556.60 ac. in the Lake Limerick area to rezone from Rural Residential 20 to Rural Residential 5 zone; this finding is based upon the facts that the applicant has not met the burden of proof required for the rezone, as stated in the staff report, and that the criteria for the rezone are not met; also, move to have the chair sign the Findings of Fact for the decision. Motion carried unanimously. B-aye; J-aye; K-aye.

Marlene Davison/L. Peste Trust - Rezone Request No. 02-07C

Cmmr. Kamin/Baze moved and seconded that the Board of County Commissioners adopt the recommendation of the Department of Community Development on Rezone Request No. 02-07C Marlene Davison and L. Peste Trust and adopt a motion to deny the rezone for the two parcels totaling 161.63 ac in the Spencer Lake area to rezone from Rural Residential 10 to Rural

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Residential 5. This finding is based upon the facts that the applicant has not met the burden of proof required for the rezone, as stated in the staff report, and that the criteria for the rezone are not met. Also move to have the chair sign the Findings of Fact for this decision. Motion carried unanimously. B-aye; J-aye K-aye.

Merrill & Ring - Rezone Request No. 02-14

Chairperson Johnson added that the items recommended for adoption are those which fill the criteria as established. Also the Board is going to take a look at the criteria for any changes which may be beneficial and satisfy the requirements for rezoning in the County. He pointed out that the items where the request for rezone has been denied, the thinking involved provided a transition zone from an area of high density to one of lower density is a very significant way to proceed. However, there are no provisions in the criteria for doing it that particular way. As indicated earlier, Parcels "g" through "j" satisfied the criteria.

Cmmr. Baze/Kamin moved and seconded to support the recommendation of the Department of Community Development on Rezone Request No. 02-14 Merrill and Ring and adopt the motion to deny the request for the parcels listed as "a" through "f" and "m" through "n" from Rural Residential 20 to Rural Residential 10, and approve the request for the parcels listed as "g" through "j" from Rural Residential 20 to Rural Residential 10. Also move to have the chair sign the Findings of Fact for this decision. Motion carried unanimously. B-aye; J-aye; K-aye.

Donald Huson - Rezone Request No. 03-03

Cmmr. Kamin/Baze moved and seconded to adopt the recommendation of the Planning Advisory Commission on Rezone Request No. 03-03 Donald Huson by denying the request to Rezone parcel numbers 32325-41-00000 and 32325-44-00000 (80 ac. total) from Rural Residential 20 to Rural Residential 10 zone. In addition, move the Board of County Commissioners adopt the recommendation of the Department of Community Development on Rezone Request No. 03-03 by denying the request to Rezone the parcel number 32335-33-00000 (40 ac.) from Rural Residential 20 to Rural Residential 10 zone; and move that the chair sign the Findings of Fact for these decisions. Motion carried unanimously. B-aye; J-aye; K-aye.

Cmmr. Baze stated in review of the rezone proposals they have found that the Comprehensive Plan rezone criteria do not provide a detailed guidance as they would like.

Cmmr. Baze/Kamin moved and seconded to refer the Comprehensive Plan rezone criteria back to the Planning Advisory Commission and ask them to go through the criteria and review to see if it could be more defined and reasonable to meet the goals of the County. Motion carried unanimously. B-aye; J-aye; K-aye.

They ask that the Planning Advisory Commission look at innovative amendments for enhancing economic vitality while still meeting the goals of the Growth Management Act maintaining rural character and protecting the environment. The County has consistently said that being in compliance with Growth Management is important for the economic vitality but they believe the Comprehensive Plan

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could use some fine tuning to make it easier for people to use. He further directed the Planning Department to evaluate whether these amendments would make a difference in the rezone applications considered thus far.

Cmmr. Baze added that if the criteria should change they would like to look at the zoning applications already in process and see if there are any changes which would need to be made in those applications. They could be reconsidered at no cost to the applicant.

Cmmr. Kamin noted that all of the decisions the Board has made they have taken very serious consideration in trying to look at the large picture. In doing so they are aware the criteria may not match up with the way they would like the County to move and she would also like to relook at this.

Cmmr. Johnson stated that the process of looking at the applications submitted and the areas where it seems feasible, the criteria does not provide for it. The attempt has been to be consistent throughout in applying the criteria so all those who made application are treated in an equitable and fair manner.

12. Administration - None.

13. Adjournment - The meeting adjourned at 12:10 p.m.

BOARD OF COUNTY COMMISSIONERS
MASON COUNTY, WASHINGTON

Wesley E. Johnson, Chairperson

ATTEST:

Jayni L. Kamin, Commissioner

Rebecca S. Rogers, Clerk of the Board

Herb Baze, Commissioner