

# MASON COUNTY PLANNING ADVISORY COMMISSION

**Minutes**  
**August 19, 2002**

(Note audio tape (#2) dated August 19, 2002  
counter (#) for exact details of discussion)

*(This document is not intended to be a verbatim transcript)*

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## 1. CALL TO ORDER

The meeting was called to order by Chair Diane Edgin at 6:00 p.m.

## 2. ROLL CALL

**Members Present:** Bill Dewey, Diane Edgin, Steve Clayton, Irv Shotwell, Theresa Kirkpatrick, Marilyn Johnston, Robert Sund. **Staff Present:** Bob Fink, Darren Nienaber, Michael MacSems, Rick Mraz, Pam Bennett-Cumming, Grace Miller, Susie Ellingson.

## 3. APPROVAL OF MINUTES

July 22, 2002 minutes. Steve Clayton requested adjustments to the minutes regarding statements quoted. They included counter #'s 610, 625, 630, 652 and 2212 and were actually Steve Clayton instead of Bill Dewey. Minutes were approved with requested changes.

## 4. NEW BUSINESS

(#0160) Diane Edgin: Tonight we're dealing with variances and removal of moratoriums. The first one we're dealing with will be Island West.

(#162) Theresa Kirkpatrick: Madam Chairperson, before we begin with that I would like to request an excused absence for next month. I have a commitment that I made previous to being appointed to this committee and I will have to miss the next meeting.

(#0175) Bob Sund: The bylaws do say it needs to be voted on. I move that her absence be excused for next month.

(#0190) Marilyn Johnston: I second the motion.

(#0192) Diane Edgin: All in favor? Motion passed to accept Theresa Kirkpatrick's requested absence for

the September 16, 2002 meeting.

(#0225) Michael MacSems: Hello, my name is Michael MacSems, Planning Department Staff. I thought before I launch into this staff report, you might like a review of the process. Essentially when someone wants to log their property there are two types of permits they can apply for. One is called a Class III and that's a straight, State Department of Natural Resources review and the county does not get involved. The caveat on that is that this property is to remain in forestry use for at least six more years and supposed to be replanted. If the property owner doesn't want to do that, if they want to clear the property or a portion of it, then turn that into something other than forestry, like residential, then they need to get a Class IV General Permit. This is also a state permit but in addition to the state permit, there's a SEPA (State Environmental Policy Act) review that's handled by the county. Essentially, the county is reviewing the project before the state looks at it and says if the projects meets all the criteria of the Mason County Environmental Resource Ordinance and basically condition the project so that it will. What happens is sometimes people will apply for and receive a Type III permit, which they got through the state with no county environmental review, and then within the course of that six years either they or their successors would decide what they really wanted to do is develop some portion of that property. The state required the counties to develop an ordinance that would create a process for people to do this. Our ordinance has two different processes. One is a waiver and one is a removal of that six-year moratorium. A waiver is applicable when you wish to develop up to two acres of a property for residential use only. A removal would be required in cases where you wanted to have the entire property free from the moratorium or for example, when you wanted to divide the property, by definition would have to remove the moratorium from the entire property in order to divide the entire property. That's the background for the two cases I have before you tonight.

The first staff report is an application on behalf of Island West Associates for property located out on Shelton-Matlock Road just south of Lake Nahwatzel. There is a map attached to the staff report I sent you.

(#0310) Theresa Kirkpatrick: It's confusing; I would appreciate clarification of the map.

(#0315) Michael MacSems: What happened on this was that they had at least two properties here and the one with the dark line around it and the logging was done on that property. Subsequently earlier this year they did a BLA (Boundary Line Adjustment) and they actually switched property lines. (*Michael indicates on map*). We allowed them to do that because in this case a BLA was not a development because there was no activity that was actually going to occur. Now the owners want to sell that property without any encumbrances and then they will want to come back in and divide the larger lot.

(#0350) Bob Sund: If you read this and try to follow what they're talking about the acreage or nothing matches up.

(#0362) Michael MacSems: The thing to keep in mind is that this is actually two properties; one entire parcel to the north and the southern portion of this moratorium is now a piece of a larger parcel that is not otherwise encumbered by the moratorium. (*Michael points to map and explains property lines*).

(#0384) Theresa Kirkpatrick: So the bottom two-thirds of Lot 3 are now the same parcel as the entirety of Lot 4. Thank you.

(#0390) Steve Clayton: So Lot 3 is it's own independent lot now and given the size of the lot next to it at 4.52 then that's less than a 5-acre minimum?

(#0400) Michael MacSems: That lot is not part of this project.

(#0402) Steve Clayton: If you're saying the line comes over relatively even to the bottom of Lot 1 ...

(#0406) Michael MacSems: It is actually a 5-acre parcel.

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(#0410) Bob Sund: The numbers on the lots are actually related to the wetlands, correct?

(#0412) Michael MacSems: That is correct. We have 1 and a fraction parcels that are subject to the moratorium. The story that they told me is that apparently, Dan Holman of Island West Associates, had filled out the paperwork for a Class IV and somehow in the course of the trees actually being cut the project got turned over to Manke Lumber who applied instead for a Class III. Another thing to know about the difference between a Class IV and a Class III is that a Class III costs \$50.00 and a Class IV costs \$700.00 so that sometimes is an incentive for people to decide that they really don't need to do anything else with the property for the next six years.

(#0448) Bob Sund: So the permits are not related to how much timber is taken off; it's a flat fee?

(#0452) Michael MacSems: Yes, it's just a flat fee. The state does collect revenue on the board footage but that's a separate issue that's not related to this.

(#0462) Diane Edgin: So you're saying that one of the original owners were going to get a Class IV and then Manke applied for a Class III

(#0465) Michael MacSems: Somehow they lost track of what was going on and Manke applied as a Class III.

(#0476) Steve Clayton: Under the standards for approval in your staff report it needed to be reforested as specified in the Class III plan.

(#0486) Michael MacSems: I did go out there more than once to look at the property and I saw evidence of replanting and I also was very careful with a tape measure and looked at where the edge of the wetlands were and measured off the appropriate setback they were supposed to leave undisturbed. I saw that, in fact, they had not cut into that vegetated buffer which makes this project a lot easier to recommend approval for than if they had gone into that buffer.

(#0502) Irv Shotwell: Michael, who did the replanting of the trees?

(#0505) Michael MacSems: It would have been either Manke or a contractor.

(#0508) Theresa Kirkpatrick: I have a question pertaining to the project description; it says for the homebuilder to eventually divide the lower lot. Do we need to concern ourselves at this hearing with that? That has no bearing on tonight's proceeding?

(#0518) Michael MacSems: That is correct. In the end what the county is recommending is that we approve this request for moratorium removal without conditions.

(#0535) Theresa Kirkpatrick: So the standards for approval that are in here would be the conditions for approval that the county is recommending?

(#0538) Michael MacSems: Because they are in compliance with all that there are no conditions to apply. There's no differential for what they did and what we would have required them to do had they gotten a Class IV.

(#0555) Diane Edgin: Does anybody here wish to testify? Hearing none, I so close the public hearing portion and now we can make the motion.

(#0576) Irv Shotwell: I move to recommend approval of the application of Island West Associates to

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remove the moratorium.

(#0590) Bill Dewey: I second the motion.

(#0592) Diane Edgin: We have a motion and a second. All in favor? Motion passed.

(#0594) Bob Sund: I would like to make a suggestion that we can look at the map and follow it. That the verbiage will talk about the things on the map so that we can follow it.

(#0625) Michael MacSems: What happens a lot of times is that these maps are not prepared specifically for the staff report but are borrowed from other text and adapted to the staff report. I will try to adapt them better.

(#0648) Diane Edgin: The next item is the removal of a six-year moratorium for Joanie Mogolis.

(#0665) Michael MacSems: You will see an addendum that was written today for this project. The situation with this application is that they had apparently bought this property without realizing there was a moratorium on it and as I described in the staff report they were actually issued a building permit for a house because for some reason that moratorium that was put in the property in 1999 was never entered into the county's data base. So the building department didn't realize there was a moratorium on it at the time they issued the permit. Somehow the owners became aware there was a moratorium on it and brought it to my attention and they have reasons that they can explain why it's pretty important for them to be able to divide the property in a timely manner. So before they can do that they would have to have the moratorium removed from the entire property. I conducted two site visits; the first one was in July and the cutting on this was a thinning in two different sections (upper and lower). My initial site visit focused on the lower section and the critical areas. There's two wetlands and a stream in the southwest corner of the property. Then I wrote the staff report recommending approval without conditions. I then received a letter from one of the neighbors letting me know that they felt there was a stormwater runoff problem at least partially resulting from the cutting that had happened in the northeast corner of the property, which is a portion of the property I didn't see on my initial visit. So we are amending our recommendation for approval. If they had done a Class IV permit they would have been required to come up with a stormwater site plan for the property. That wasn't done and there is an impact to the neighbors on the north property line so they will have to create a stormwater site plan, which is the normal thing they would have to do anyway, but in addition to that we want them to pay special attention to that north property line and if it turns out that any mitigation needs to be done to correct damage that has occurred as a result of that cutting they will have to do that. They cut pretty close to the property line and with heavy equipment the property was fairly mudded and there was water sheeting off the property that was channelized it. That would have to be fixed either before they receive short plat approval or they could bond for that work to be done.

(#0716) Theresa Kirkpatrick: On Lots 2, 3, and 4 on the map that came with the staff report shows 2.5, 2.2 and 2.2 acre parcels. The law that I read, 11.04330, says that short plats will be no larger than 2 acres in size.

(#0828) Michael MacSems: It's actually 5 acres. This is a 5-acre zoning; R-5. In the Development Regulations the actual lot size minimum is 2 acres. What they're doing is averaging the size of those small lots with that one large lot that is roughly in the neighborhood of 32 acres. It's a 40-acre parcel but they have a lot of undevelopable areas on that large piece.

(#0855) Steve Clayton: Under standards for approval it says not only does the harvesting have to be done via the permit but the reforestation; was the property reforested?

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(#0860) Michael MacSems: I saw evidence of replanting.

(#0862) Diane Edgin: What about the concerns about the well? Cromwells said the well was 50 feet from the property line.

(#0866) Michael MacSems: The Cromwells are here and you can ask them about that.

(#0872) Theresa Kirkpatrick: Do you know where the new septic is located or the well?

(#0876) Michael MacSems: No.

(#0878) Bill Dewey: Are the people usually notified, when they buy the property, that there is a moratorium on the property?

(#0882) Michael MacSems: What should have happened is that it should have showed up on the title report. I don't know whether that happened or not. That would be independent of the county knowing about. It is recorded with the county auditor and for some reason it wasn't entered into the county data base.

(#0898) Theresa Kirkpatrick: Is there any new policy in place that might prevent that from happening again in the future that you're aware of?

(#0900) Michael MacSems: No; it shouldn't have happened in the first place.

(#0905) Bill Dewey: But you're saying that the landowner should have been aware of it from the title report when they purchased the property that that moratorium was in place?

(#0908) Michael MacSems: That's the way it's supposed to work.

(#0915) Steve Clayton: To grant the variance under #3 in standards for approval it says that there shall be no damage to a critical area or its associated vegetation; you're saying that the north line wasn't a critical area?

(#0920) Michael MacSems: Or that mitigation can achieve restoration. That's what it says in the ordinance. When I wrote the staff report I was under the impression that no damage had occurred. I have been corrected on that but the ordinance says that you have to make a finding that no damage has occurred or that you can mitigate that damage.

(#0940) Irv Shotwell: Why did it not go under Class IV to begin with?

(#0945) Michael MacSems: The owners can speak to that but they weren't the owners at the time the property was logged. There's an economic advantage to apply for a Class III and if they had no intention of doing anything with the property those two things together would not make a Class IV an advantage.

(#0966) Diane Edgin: We will now open the public hearing. Any testimony?

(#0980) Bill Cromwell: My name is Bill Cromwell and we own the property next door which is 20 acres. We have the 20 acres next to the 40 and I'd like to know more about what's going to happen on the property. I'm mainly concerned about runoff from Lot 2. We're building a new house approximately 50 feet from the property line and I think it would impact us quite a bit. I guess there's a house on Lot 2 and our main concern is another house next to that one? Is there going to be any further development on Lot 2?

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(#1055) Bob Sund: There already is one house on Lot 2 and if it's in a 1:5 area they can't build another one, can they?

(#1065) Michael MacSems: In Mason County you can have a primary residence and then you can have an accessory dwelling if you meet certain stringent criteria. So there is a possible chance that they could put another residence in the back of where the house exists now.

(#1076) Theresa Kirkpatrick: Michael, could you please speak to the slope of the land since runoff is what we're discussing?

(#1080) Michael MacSems: It primarily slopes to the south but it crests before it reaches the north property line and then begins to slope gently to the north.

(#1092) Kim Goldsby: My name is Kim Goldsby and I'm speaking for Joanie Mogolis tonight. I am her roommate so I am very much aware of what's going on. There's no plan for any development on this property whatsoever except the house that is being built now. The only reason that it is being put into four parcels is because the finance company requires an additional parcel on the 40 acres to issue financing. So where we stand right now is that the house is half finished. Our impact financially as well as the construction workers impact if they have to stop the project is devastating to both parties. The existing home is going to be a rental home, which is on Lot 2 and the only thing that would be done to the property is maybe put an additional shed. Unless there's some financial need, the other properties are not intended to be sold. This wasn't done for a development purpose at all.

(#1166) Theresa Kirkpatrick: If the financial company required just one parcel for the existing house, or to separate them, why are you requiring parcels 3 and 4?

(#1172) Kim Goldsby: I believe someone told us that that was what we needed to do. It was either the surveyor, who is Dan Holman, or maybe it was the county.

(#1185) Michael MacSems: Probably Dan Holman gave her that advice. The short plat is defined as a division of up to four parcels of which one is less than 5 acres in size so for the same money they can create four, which is money in the bank for the future.

(#1200) Kim Goldsby: I believe it may have been the finance company that wanted to make it four parcels to make it worth more money.

(#1210) Theresa Kirkpatrick: The letter that I received through the Planning Department from Mr. and Mrs. Cromwell mentions horses near the wetland. Do you have any intention of livestock and are you aware of the buffer requirements to keep livestock away from wetlands?

(#1215) Kim Goldsby: We are aware of the requirements for that. We received a letter from the county last year that had the shellfish area and the livestock issue were both highlighted on the paperwork that was sent and we were never told who the individual was that reported that we would have horses. We have talked about having horses although that is not something that is a definite but we are aware of the buffers.

(#1276) Irv Shotwell: I think the primary concern is runoff water.

(#1278) Kim Goldsby: To address this issue, approximately 2 ½ months ago right when the foundation had been laid, the Cromwells apparently came up the driveway with their dog and went over to the rental house and asked if they could look around the property and look at the house. The renter was thrown various questions by the Cromwells and they wanted to know what we were doing with the property. The

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only complaint at that time that the Cromwells made was that there was too much barking being done by a dog. They didn't know whose dog or where they were coming from but that was the only thing that we have ever heard them complain about. Now, I know exactly where their home is and it's not directly across from the existing house; it's back further toward the wetland area. *(Kim indicates on map)*. I've been back there all times of the year in the last year with the exception of when there was snow and to be perfectly frank, if the Cromwells had a problem with runoff, I don't know why they built their house where it's built because that's exactly where they're saying the runoff is going to. It doesn't make much sense to me when they have 20 acres that they would choose this exact location and then now come to us and ask us to take care of that problem. I really don't know what the issue is about the well that's next to the property line. They put that well in this summer so that would also make me wonder why, if there was a problem, they would put the well there. I was back there this afternoon and as Mr. MacSems says, there are areas where you can see there was heavy equipment and it made deep ruts but the vegetation back there is very thick and it's growing up very rapidly. It creates a buffer in itself for the drainage of water. It's a clay type of soil that's around there.

(#1420) Irv Shotwell: Which lends itself to heavy runoffs.

(#1430) Kim Goldsby: I haven't been shown the area where Mr. MacSems was shown because the Cromwells have not contacted us before so I can't address that issue.

(#1440) Irv Shotwell: Would you be willing to work with the Cromwells to try to get that resolved and be good neighbors?

(#1444) Kim Goldsby: Sure, we were kind of blind sided by all this and then to be calling our property a development and we're going to have a lot of horses is hearsay that's coming to us from them and we haven't even spoken to them. I would say there's a problem with communication from at least one side.

(#1464) Bill Dewey: With the staff's recommendation before this subdivision, if we were to go ahead and approve it and the BOCC went ahead and approved our recommendations, before the subdivision can be recorded they're requesting a stormwater site plan for the entire property?

(#1480) Michael MacSems: That's correct.

(#1484) Steve Clayton: So that would have been required under a Class IV permit?

(#1486) Michael MacSems: Right, they would have had to have presented us with a plan that our county engineer would approve that the county would say that this would keep water from exiting the property. Likely what would have happened in a case like that this would typically leave a buffer on the edge of the property. That's not what happened in this case.

(#1505) Steve Clayton: If this wasn't disclosed on the title then that would be something that perhaps the property owners could go back and have recourse against the people they purchased from.

(#1512) Kim Goldsby: Which would be the State of Washington. The state took over because the lady who owned the property before became incapacitated and had no family to give the property to or to take care of her so the state took over the property while she was in a nursing home and she died in November.

(#1530) Bill Dewey: There was no notice of the moratorium?

(#1534) Kim Goldsby: It wasn't brought to our attention at that time. We believe this issue should have been addressed to us but the real estate agent was the buying and the selling agent and the property was actually never released to the general public for sale because they knew we were interested in it.

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(#1600) Steve Clayton: So we're requesting a wetlands survey and report and then bonding for the work to be done to repair any damage on the north line?

(#1620) Michael MacSems: The wetland issues will be addressed through the short plat; that's not an issue for this activity because there was no impact to the wetlands.

(#1628) Kim Goldsby: May I add that when the property was first purchased on a site walk through along with my sister we noticed although the trees had been logged in 1999 we noticed that some of the cedar off the stumps had been stolen so we're really not sure about how the heavy equipment marks might have got there. The only access is through the Cromwells road which now has a gate but I don't believe it had a gate at that time and if there was a gate I don't believe it was locked all the time. We never addressed the issue with the Cromwells because we wanted to be good neighbors.

(#1680) Irv Shotwell: Do I understand, Michael, that you're recommending that we approve this providing that they build a Class IV protection so it doesn't have runoff?

(#1696) Michael MacSems: I'm recommending approval with the condition that the stormwater issues that have been raised are addressed and mitigated if that's what should be done and there's a timing issue with that as well. So that's why I'm not requiring that to occur prior to the release of the moratorium but within a stated period of time and that there would be a bond posted for that work so that the county has some recourse if it's not done.

(#1720) Bob Sund: And that would be up to you people; all you're asking us to do is release the moratorium.

(#1720) Michael MacSems: Right.

(#1768) Diane Edgin: Any further questions? Do the Cromwells wish to address this any further?

(#1772) Bill Cromwell: No, I think we can work with them and I feel that the drainage problem we pretty much controlled across our driveway and my main concern was any further development of the property directly adjacent that would create more of a problem. I feel that we can work together with no problem.

(#1798) Bob Sund: I move to recommend approval of the application of Joanie Mogolis to remove the property described from the six-year development moratorium and also authorize the Chair to sign the Findings of Fact.

(#1812) Marilyn Johnston: I second the motion.

(#1830) Diane Edgin: We have a motion and a second. All in favor? Motion passed. The next project we're dealing with is the Barbara Morris property.

(#1878) Rick Mraz: Commission members, Rick Mraz with the Planning Staff presenting the report that evaluates a request for a variance from the Mason County Resource Ordinance and specifically the placement of a manufactured home within the stream buffer for Caldervin Creek in Tahuya, a Type III stream. The applicant is Barbara Morris. The staff report is submitted by reference into the record and I will just touch on the high points. In general, the buffer for a Type III stream is a 165-foot distance comprised of a 150-foot vegetative buffer and a 15-foot building setback. Ms. Morris' lot is approximately 75' x 130' deep and the distance from the stream from the actual edge of placement of the house is proposed to be approximately 39 feet. In essence the entire parcel is subsumed by the stream buffer so placement of a manufactured home or any structure on the parcel would necessarily trigger the variance



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requirement within the ordinance. As noted and depicted in the attached photos, most of the parcel already exists as a cleared area and was used by Ms. Morris as a residence in a travel trailer for three years. So the cleared area was occupied for a number of years prior to the changing of the buffer requirements and Ms. Morris simply wants to place the manufactured as pictured in the footprint as described. With regard to the specific requirements to grant a variance, they are listed in the staff report under staff discussion on page 2. Essentially the parcel is subsumed by the buffer area. Most of the buffer area and especially that area that is proposed for the placement of the manufactured home does not constitute critical habitat as described in the Resource Ordinance and the applicant would be denied reasonable use of the property without granting of the variance. I have noted a number of other residences on the same street and on the adjacent street that also exist within the stream buffer; in fact, practically every house on that street exist within the stream buffer. There have been several other variances granted similar to these and the cases are listed in the staff report. The activity is SEPA exempt as residential development and the proposal will require a Mason County building permit. With regards to public comment, there is a 28-day comment period that is required on the HMP (Habitat Management Plan) and the HMP was submitted to WDFW (Washington Department of Fish and Wildlife) and the Skokomish Tribe. You should have received under separate cover a letter from the Skokomish Tribe making their recommendations. With regard to a response to those representations, I'm not sure the Skokomish Tribe had the full site plan available to them. To rotate the trailer 90 degrees would essentially encumber the drainfield for most of the drainfield.

(#2060) Theresa Kirkpatrick: So we don't know the age of the septic or the condition that's close to a stream?

(#2064) Rick Mraz: That's correct except that in order to receive the building permit for the placement of the manufactured home she needs to meet current septic standards and the septic system was approved by the county department of environmental health as normal review for the building permit application. It has already been signed off by the environmental health department.

(#2082) Steve Clayton: The diagram shows septic on the north side of the property behind the trailer and not on the part that's adjacent to the road. If the drainfield was on the part adjacent to the road she would be driving on it, although I agree that given the size trailer and the frontage she has there it could not feasibly be rotated 90 degrees.

(#2154) Theresa Kirkpatrick: Do you know where the well is located on this property?

(#2156) Rick Mraz: It's a community water system. Planning staff also received two additional phone calls from neighbors. One was an anonymous call and one was from a gentleman named Gary Harris; both were in support of the variance and had no objections

(#2176) Diane Edgin: How does it line up with neighboring properties as far as the stream?

(#2180) Rick Mraz: As far as proximity goes it essentially is equivalent to some of the residences on the same side of the street. It is actually farther away from the stream from a residence directly opposite on the other side of the stream. In essence, it occupies a footprint that is totally cleared and as do most of the residences along there and there's a riparian corridor there of 30 to 50 feet wide on both sides of the stream that's in fairly good shape with mature douglas fir, fig leave maple and red cedar.

(#2222) Bill Dewey: Would additional clearing be needed if it were to be placed further back by the road as the Skokomish Tribe suggests?

(#2228) Rick Mraz: I don't believe any additional vegetation would need to be removed. Maybe just the one tree up by the mini van. *(Rick explains in photo).*

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(#2262) Steve Clayton: The impression I had of the property was if it was rotated 90 degrees it would pretty well block access to the property and that is my only concern. She has trees on both corners of the property entering and a 56-foot trailer on a 75-foot wide lot ...

(#2280) Rick Mraz: And she has to meet 5-foot sideyard setbacks.

(#2294) Diane Edgin: I would imagine also that just the hydraulics of redesigning the connections to the septic would have to be taken into consideration if it were feasible.

(#2310) Steve Clayton: Runoff from the roofs; has that been addressed? Or are we just going to run the stormwater off the roof into the creek? Into a sump?

(#2318) Rick Mraz: It's a flat site and the question has not been specifically addressed in the HMP.

(#2328) Steve Clayton: Being close to the stream and in the buffer zone and as you say most of the lot is cleared and if it was to be paved or made into an impervious surface then it would further damage the habitat quite a bit.

(#2358) Rick Mraz: Any increase in impervious surface - any modification to the parcel would also be subject to the provisions of the Resource Ordinance. This activity can specifically be addressed if we want to add conditions to the building permit.

(#2384) Bob Sund: Isn't that getting into an area that we're not be asked to address?

(#2388) Rick Mraz: I believe you can make recommendations with regards to modifications or suggestions in ways that the proposal might enhance the preservation being attempted by the HMP.

(#2320) Diane Edgin: If the property is flat and you have an increased area you're going to want to do something with that water otherwise you're going to have standing water around your home.

(#2434) Irv Shotwell: But you don't want to run it into the creek.

(#2438) Bob Sund: That automatically comes in under the building codes.

(#2442) Rick Mraz: Not in the same way in that the building codes may not make specific recommendations as to where the runoff is directed but rather that it not be directed onto neighboring properties to deleterious effects. In this case you could recommend to staff to make modifications to the conditions such that roof runoff will be managed so as to not adversely impact or not even enter the stream drainage.

(#2500) Bill Dewey: The manufactured home appears to be onsite from the photographs so is she still living in her travel trailer site?

(#2510) Rick Mraz: I can't answer to that.

(#2525) Diane Edgin: Any further questions? We will now open it up for testimony. Ms. Morris?

(#2535) Barbara Morris: My name is Barbara Morris and this is my boyfriend that lives with me; David Kennedy. There is a runoff already existing five feet on the north side specifically for runoff.

(#2568) David Kennedy: The right-of-way was put there for runoff purposes. It's a big ditch.

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(#2582) Steve Clayton: So you're intending to direct downspout water into that ditch?

(#2612) Barbara Morris: Yes.

(#2618) Irv Shotwell: How did you select the footprint for the 56-foot structure?

(#2622) Barbara Morris: It was the only place it would fit. In the front of the property there's a water pipe that runs directly across the driveway.

(#2642) Bill Dewey: So if you were to locate it on the front of the property you'd be on top of that water line?

(#2645) Barbara Morris: Yes.

(#2650) Steve Clayton: The water line is buried so would there be a problem?

(#2656) Barbara Morris: It's an awful heavy trailer. If it breaks I wouldn't want to have to go underneath the house to dig it up.

(#2666) Steve Clayton: You're the only one who uses that water line?

(#2668) Barbara Morris: Yes.

(#2672) Steve Clayton: So if you moved the trailer further to the front of the lot then you could literally dig the water line up and have it not come underneath your trailer and have it enter the trailer from where it comes off the road, couldn't you?

(#2680) Barbara Morris: I don't know; the community club put that water pipe in. But that's also where the drainfield is.

(#2700) Steve Clayton: Where you're parked now?

(#2702) Barbara Morris: No, just in front of it. (*Shows on map*).

(#2748) Theresa Kirkpatrick: Is that subject to vehicle traffic at this time?

(#2750) David Kennedy: No.

(#2760) Bill Dewey: Are you still living in the travel trailer on the site?

(#2766) Barbara Morris: Yes, it's a motor home. I've been living in it for three years on the property.

(#2788) Diane Edgin: What kinds of houses are on your neighbors properties?

(#2795) Barbara Morris: Right next door to me there is a stick building. Up the street a ways are some mobile homes. They just built two stick buildings just down the street from me.

(#2808) Diane Edgin: Are they comparable in size what you're putting in place?

(#2810) Barbara Morris: Yes, everything is about the same size.

(#2814) Irv Shotwell: As close to the creek as yours?

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(#2816) Barbara Morris: There are some of them that are even further back than mine; closer to the creek.

(#2830) Irv Shotwell: Evidently the indian tribe feels that your place is going to be too close to the creek and they'd like to see it back a ways.

(#2840) Darren Nienaber: Barbara, have you had a chance to see the letter from the tribe?

(#2842) Barbara Morris: No, I've never see it. (*Barbara reads comment letter from Skokomish Tribe*). Where our motor home sat is exactly where the new mobile home is sitting.

(#2942) Diane Edgin: Could you clarify the length of the home you're putting in there now?

(#2944) Barbara Morris: If you cut the tongue off it's not 56 feet; it's 48 feet.

(#2955) Irv Shotwell: So the roofline is 48 feet long?

(#2960) David Kennedy: Right.

(#2962) Bill Dewey: So you could conceivable turn it parallel to the road and have adequate setbacks from the adjacent properties.

(#2972) Diane Edgin: You have to remember this is a mobile; they have to have swing room.

(#2977) Barbara Morris: And there's trees on both sides.

(#2995) Steve Clayton: Are you living in the new trailer now?

(#2997) Barbara Morris: No.

(#3005) Steve Clayton: Would it be terrible if we put this off to address the septic and the Skokomish Tribe and continue it till next month?

(#3015) Barbara Morris: We're looking into the winter now and we're living in a tiny little space. The home is there; I don't know what more we can do. We can't turn it, we can't bring it forward. If they would come out and look at it and view our lot the way it really looks; you can't turn it because it would be too close to other peoples property.

(#3100) Bob Sund: We are being asked to remove the buffer requirement. If the buffer stays, their property becomes unusable so that's why we have to go through the variance process so that they can use their property. Now as far as the placement of that mobile home, isn't that a different procedure or is that a part of this variance?

(#3150) Rick Mraz: Because when you consider the variance case, you have to consider the issue of reasonable use and as a part of that review you have to consider whether the applicant's proposal is reasonable. Is the configuration reasonable; is the footprint reasonable? All of these issues, within reason, need to be reviewed.

(#3175) Irv Shotwell: Rick, you've made a site study of this and is it unreasonable to think that this trailer could be moved back from the stream another 20 feet and instead of 39 be 59 feet?

(#3192) Rick Mraz: It's really difficult for me to answer that with out fully examining and staking out the actual other limits on the placement, such as knowing specifically where the drainfield extent is and

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specifically the size of the drainage easement that exists on the side of the property and whether or not they would need to infringe upon that easement. We typically don't look at it in that level of detail when the application in and of itself seems to occupy the footprint that doesn't constitute critical habitat, is in an entirely cleared area.

(#3240) Irv Shotwell: But this information from Natural Resources indicates it does.

(#3252) Rick Mraz: That's where I think that I would differ with the analysis. The footprint of the mobile home does not rest upon what we would consider critical habitat.

(#3275) Theresa Kirkpatrick: Approximately how many of these big trees did you clear?

(#3280) Barbara Morris: We cleared six trees and they were huge.

(#3310) Diane Edgin: Would there be any benefit to enhancing the buffer that exists?

(#3316) Rick Mraz: That's addressed in the HMP. The recommendation was made by the biologist to increase plantings at the edge of the buffer and that was part of one of the conditions that staff has attached.

(#3340) Theresa Kirkpatrick: I'm not familiar with Mr. Boad. Does he work as an independent person or for any agency?

(#3342) Rick Mraz: Both, actually. He's a private biological consultant and he also works for the Hood Canal Salmon Enhancement Group.

(#3355) Irv Shotwell: Are the Skokomish people aware of the recommendation of increasing that habitat?

(#3368) Rick Mraz: They are. They have a copy of the HMP; that is what they get along with the site plan and the initial application.

(#3388) Irv Shotwell: No one from the Skokomish Natural Resources is here tonight?

(#3390) Rick Mraz: No. I did invite one of their biologists but he said their comments were best addressed in the letter.

(#3400) Steve Clayton: Do you have the building permit application? Did that include a septic design in it?

(#3405) Rick Mraz: It doesn't include septic design; it includes another site plan showing distances and all critical facilities. It does show the location of the drainfield more forward towards the road.

(#3500) Bill Dewey: I'm just trying to think of a way to not hold these folks up unnecessarily and I'm wondering if there's a way to somehow take action that would approve it pending staff's reassessment of the property with the ultimate goal being that that trailer be placed as far back away from the stream as possible pending the limitations of the site.

(#3530) Steve Clayton: Is that something you can work with, Rick?

(#3550) Rick Mraz: What I would contemplate doing is finding, as best I can, the exact footprint of the existing septic. Based upon the location of the drainfield that will necessarily place the manufactured home somewhere adjacent to it and then finding whatever other limitations there are as far as placement of the home. Are you also recommending that they attach to the existing water line as Steve mentioned?

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(#3598) Steve Clayton: It would be up to them.

(#3600) Rick Mraz: I don't know what limitations, if any, exist within the community water system in and of itself. I'd have to find out if the community water system would allow them to do that. Is that also part of the recommendation?

(#3630) Steve Clayton: I think that would be a building permit question.

(#3535) Rick Mraz: If we're going to move them forward we need to know that it's feasible to do that. If that is a part of the direction to do so I'll look into that as well and then we can find the best footprint.

(#3658) Irv Shotwell: I think one of the things that's most important is to move away from the creek as far as reasonable. The other thing, if you can't do that, then let's think what we can do to at least keep a little of the drain water off and that would be to go into what Steve was talking about.

(#3676) Barbara Morris: The drainage comes up and then drops 18 feet to the creek. The property where we're at is running back before it flattens. There's no way any water can get to the creek.

(#3756) Steve Clayton: The impression I get on part of the requirement or part of the interest in increasing the buffer zones is not just for rainwater it's also so trees can grow and insects can grow and feed the fish and more trees the deeper you get off the water and the cooler it gets.

(#3825) Rick Mraz: How would the PAC feel about the proposal to move forward that didn't cause tree removal? The county does require at least a 10-foot setback from the edge of the right-of-way.

(#0130) Steve Clayton: Having my only site visit there and also the Skok letter was that it feasibly could be moved up into where you're currently parking without having to take down those trees but I was not aware, or did not know where the septic system is, and to me, it would not be justified to have to build a new septic system to save a few feet on the house. However, if we could move the house and still incorporate the same septic and not cause you a lot of dollars.

(#0152) Bob Sund: I like Bill's recommendation. I think that we should move forward. Bill can you restate your recommendation?

(#0156) Diane Edgin: First let's see if anybody else wishes to testify on this property. Any more comments or testimony? Okay, let's move on. I'll now close the public hearing.

(#0162) Theresa Kirkpatrick: I'd just like to make the comment that I am impressed that you have the habitat plan to do some planting; you've obviously given it some thought and that's important.

(#0172) Bill Dewey: I make a motion to approve this request for variance from the Resource Ordinance pending staff's efforts to review the existing limitations on the property with a goal of moving the trailer as far away from the stream as possible without removing any more trees or having to do extensive infrastructure changes to septic or water lines.

(#0194) Theresa Kirkpatrick: I disagree with the water line issue because that's something they will need to check into with the community system.

(#0202) Steve Clayton: Does that work for you, Rick?

(#0296) Rick Mraz: I think so. I would like to know under what form you would like to receive staff's

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findings of this because the approval seems to be either a conditional one or a tentative one based on what I'm hearing so I'm not sure how the interchange would occur that would allow me to get the information back to you and thereby you would respond with an unconditional approval.

(#0220) Theresa Kirkpatrick: Maybe we need these questions answered before we make a final recommendation.

(#0225) Steve Clayton: Darren, can we make a conditional approval based on things that haven't come back from planning yet?

(#0232) Rick Mraz: It remains to be seen based upon the discussion up to this point if the home can be relocated so as to be farther from the stream so the PAC is interested in making a recommendation of approval based on staff's determination that the placement of the home is as far from the stream as allowable given the limitation of septic and existing vegetation.

(#0248) Darren Nienaber: And if it's not?

(#0250) Rick Mraz: Then it would need to be relocated and it would be essentially a different proposal.

(#0252) Bob Fink: What if you phrased it such that the recommendation of the PAC to the BOCC was that it be approved where located unless the physical site would allow it to be moved an additional distance away from the creek. The information will be provided in time for the BOCC to review and if the physical constraints on the site would not allow it to be moved then it would be left as originally proposed and if it could be moved then the BOCC could approve it that way. Would that be adequate for the PAC?

(#0270) PAC: That's what we were trying to accomplish.

(#0278) Irv Shotwell: Making sure we're going to be as far away from the stream as possible and still be within reasonable use without holding them up. So I will second that motion.

*It was agreed by the PAC to accept Bob Fink's wording as the motion for this proposal that was originally proposed by Bill Dewey..*

(#0292) Diane Edgin: We have a motion and a corrected motion and a second. All in favor? Motion passed.

(#0310) Rick Mraz: I will prepare Findings of Fact for your signature at a later date. My next report is a presentation of a request for an after-the-fact variance from the Shoreline Master Program, specifically for a deck constructed higher than 30" above average grade to accommodate a handicapped owner. The SMP states the uncovered porches or decks or steps may project into the required setback provided they are no higher than 30" above average grade, excluding railings required for safety. The deck is approximately 33" above average grade and therefore a variance is required to keep the deck. I will submit the staff report into the record by reference. In essence, this was a proposal that came to light as the result of an enforcement complaint and staff visited the staff, did the measurements on the deck and the deck is depicted in photos attached to your staff report. In addition attached are letters in regards to Mrs. Parton's medical condition, which staff believes is sufficient criteria to recommend approval of the variance. Staff also notes that several variance criteria are necessary to be met prior to approval. The discussion details each of these criteria and staff feels the Partons meet the hardship criteria and recommend approval of the variance. The proposal will require an after-the-fact Mason County building permit. No SEPA determination is issued because it is SFR construction and is exempt from SEPA provided it does not occur in critical areas. Are there any questions?

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(#0405) Steve Clayton: Rick, I brought up a concern to you in an e-mail about how do we stop every house along the shoreline eventually during the course of our generations from various exemptions like this? Basically if this gets rebuilt will it be allowed to maintain the same footprint?

(#0420) Rick Mraz: It will be a legally permitted structure through the variance process so individuals can repair and maintain legal structures. As I mentioned, Hood Canal is dotted with structures that were constructed prior to the existence of the ACT but don't conform to those regulations at this time. Owners of those properties can repair and maintain those properties in perpetuity. So in this instance, if the home should transfer to some other individual that individual could repair and maintain that deck provided it has been legally approved.

(#0445) Steve Clayton: In 50 or 100 years when this mobile is no longer a viable residence and it goes away would they be able to use the same footprint and same height to replace this deck?

(#0448) Rick Mraz: The county views replacement of manufactured homes as normal repair and maintenance.

(#0454) Bob Fink: We can't really address that question under regulations that might be amended in the future but right now we would certainly allow it to be rebuilt or replaced on the same footprint depending on what was nonconforming. The shoreline regulations that we have are actually more limiting in the sense that a nonconforming structure that has to be replaced cannot be rebuilt without coming into compliance with the current regulations.

(#0475) Theresa Kirkpatrick: In the text at one point it says that the deck we're discussing is 33" and in another place on the drawing is shows 36".

(#0482) Rick Mraz: It's 33" above average. That's the height of the deck at the midpoint. It's 36" closest to water and it's actually at 30" where it abuts the house.

(#0488) Theresa Kirkpatrick: So maybe if we word it differently than the sample motion that you've provided us with ... it says higher than 30". If we could limit it through the way the variance is worded then right now you could say higher than 30" above. So maybe the next guy wants to do is 60" and that would be legal. Perhaps if we could word the variance very specifically to what exists that we are addressing. That would answer some future question.

(#0505) Rick Mraz: That's a very good point and I would offer that as an amendment myself to specifically reference the height of the deck at 33" above average grade rather than give an open ended statement.

(#0518) Bill Dewey: Is there another handicap access to the house?

(#0522) Rick Mraz: I will let the Parton's address the specific access issues but I believe there is an at grade entrance also.

(#0528) Steve Clayton: Other properties along the shoreline with similar sort of problems do we see lifts used or other sorts of solutions for this sort of situation?

(#0534) Rick Mraz: I've not had to deal with one like that so I don't have any specific knowledge one way or another.

(#0540) Bill Dewey: The application on the existing deck there's no ramp and it makes reference to a 16' ramp to be built at a later date. Will any variances be required to build that ramp or will that be covered under the existing building permit?



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(#0552) Rick Mraz: I believe that the ramp, as it's been described to me, will approach the deck and enter it directly at the 30" mark, which would make it a conforming height.

(#0593) Bill Dewey: Under #5 where it talks about public interest will suffer no substantial detrimental effect. The staff response is that local public interest is probably not affected by this proposal. I thought that there was an anonymous complaint about it.

(#0600) Rick Mraz: There was an anonymous complaint issued initially and subsequent to that complaint staff is required to do public notice of all property owners within 300' and to post the property for 30 days and we received no additional comments. It's only speculative, but it's conceivable that they were more bothered by the railing and the view impact than the deck itself.

(#0626) Irv Shotwell: Is that why that 30" limitation is placed on these decks because of impeding the view of others?

(#0630) Rick Mraz: It's considered view protection.

(#0640) Bill Dewey: Just for clarification, the deck was constructed without a permit?

(#0642) Rick Mraz: That's correct. It is through the process of the after-the-fact permitting in order to be able to issue this building permit they have to get this variance first.

(#0650) Steve Clayton: What were your thoughts on using the RO that I asked you about; RO as a temporary use; RO with an open ended 10 or 20 year time frame?

(#0655) Rick Mraz: The proposal is not jurisdictional under the RO. It's a shoreline variance.

(#0665) Marilyn Johnston: Just as a point of clarification, an after-the-fact permit; is that subject to any fine?

(#0672) Rick Mraz: Based on the enforcement actions, I'm not sure if the Partons had additional fees associated with it. Typically, enforcement action permit applications include triple fees. But I'm not certain in this case if they had to pay them. I don't specifically handle that aspect of the case.

(#0682) Theresa Kirkpatrick: Since it was built without a permit do we know everything else about the deck; that it's safe and solid?

(#0686) Rick Mraz: It would be reviewed under the normal building permit process for structural sound construction.

(#0698) Diane Edgin: Any other questions? Okay, thank you, Rick. Mr. Parton, do you want to speak on this issue?

(#0705) Vern Parton: My name is Vern Parton and Rick has just about covered everything. We bought the shack and then it became a manufactured home. This 30" thing was brought up in the original plans and the deck is the new synthetic material and it's beautiful. It was built to accommodate my wife and myself without stumbling because we're both considered handicapped. That's all I have to comment.

(#0750) Diane Edgin: Any other comments? I will now close the public hearing. Any discussion? Motion?

(#0762) Irv Shotwell: I move to recommend approval of the shoreline variance with Findings of Fact, which

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is a request for an after-the-fact variance for a deck constructed higher than 30" above average grade.

(#0775) Theresa Kirkpatrick: I would like to reiterate that I would like to put more than just 30" above average grade. If we could say exactly at it's existing height in the motion.

(#0780) Bob Sund: Wouldn't it be appropriate to say for a deck constructed 33" above average grade.

(#0792) PAC: That will work.

(#0798) Theresa Kirkpatrick: Or do we need to say no higher than 33" above average grade. As long as we get rid of the higher than.

(#0810) Diane Edgin: Do we have a second?

(#0812) Theresa Kirkpatrick: I second the motion.

(#0814) Diane Edgin: We have a motion and a second. All in favor? Motion passed.

(#0832) Rick Mraz: I will make the modification to the Findings of Fact for your signature.

(#0838) Diane Edgin: Next we have the Charles and Valerie Johnson variance.

(#0844) Pam Bennett-Cumming: My name is Pam Bennett-Cumming and I am a planner with the Mason County Planning Department. I will provide you with an overview of the project. This is a variance request for Charles and Valerie Johnson. The site is at 6921 E State Route 106 in Union. I request that the staff report be entered into the record by reference. This is a request by the applicants to replace an existing, quite old, small cabin that's in poor condition with a year round SFR. The total size is 2195 sq ft but that includes all decks and the single car garage and that would be located with a setback of approximately 55 feet from a Type III stream known as Dalby Creek. Because it exceeds the 10% increase in footprint that would be allowed under the RO, the variance is required. The variance request is not to remove the buffer but to place the SFR within the buffer. The applicants propose mitigation by planting native species to enhance the buffer and that's in the HMP that was provided to you. They also wish to use topsoil to restore grade in a depression closer to the shoreline where there was an old cabin foundation. The staff does recommend approval with the conditions that we've added to the staff report. I should point out that this is kind of an unusual site in that there are several layers of Mason County regulations that do apply to it. It's in shoreline jurisdiction, it's near a wetland, and then there are the RO Fish and Wildlife Chapter regulations that you're dealing with today. Although there are several layers of regulations that apply, we're actually looking at the variance from the stream setback for this proposal. Staff does recommend approval with the conditions that are listed. It's a project that we have worked with the Johnsons over several months to craft a project that is reasonable based on their needs but is the smallest possible in terms of impact to the actual stream buffer. They're as close as they can be to the property line but furthest away from the stream without getting into that sideyard setback. They are also going to preserve a very large maple that's part of the stream buffer that's close to the house. They're working to find creative ways to do the development such that that is not impacted, which is why one of the conditions staff does note is that development shall occur under the supervision of a qualified arborist and that a copy of the arborist's recommendations for the site development be provided to the county for review prior to the building permit approval. That's something that hasn't happened yet but will need to happen should the PAC recommend approval. The site itself is partially forested. The side furthest away from the stream is the most landscaped. The portion that is closer to the stream has a lot of trees on it and they propose to keep those and enhance that buffer as well as enhancing the area closer to the shoreline. That increase in plantings closer to the shoreline should assist in mitigating for impact on that saltwater wetland. Since staff provided this staff report to you, we did receive a comment from DOE which was

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forwarded to you under separate cover. This letter was written by someone who has not yet walked the site; they were looking at the DOE aerials. Staff will work with DOE to ensure that their expectations for native plantings are connected with what the HMP says. The recommendations they make about fertilizers and so forth are good so that when this goes forward to the BOCC staff can recommend that an additional condition be put on the application or that is something you can do here today. Other than that, no comments were received. The Skokomish Tribe did review this but chose not to comment on it after looking at the proposal. As I said we've worked extensively with the applicants and the scale of the proposal has been reduced several times as well as the configuration adjusted such that this would fit on the lot and have as little impact as possible to what is left of the buffer. As a part of our internal review separately from this the existing SFR, the cabin, will be removed and replaced with this house. The applicants are hoping to live in the house while that happens but it's going to be kind of a timing thing. Do you have any questions of staff at this point?

(#1112) Theresa Kirkpatrick: It addresses that the septic has been deemed to be adequate for this project but it doesn't specifically say how old or what type or the location of the fields and tanks. Actually the tanks and the fields were addressed but they're partially on the neighboring property.

(#1126) Pam Bennett-Cumming: There is an existing septic easement recorded on the property and on the adjacent property that does allow for that and I have been provided with a copy of that easement. As you see, the old cabin is also partially on the adjacent property. Any further septic review would happen as part of the building permit. The building permit has not been turned in yet; the applicants are waiting to see how this comes forward.

(#1148) Theresa Kirkpatrick: There are two creeks mentioned on this property. What is the likelihood of flooding if this house is built at its proposed location?

(#1155) Pam Bennett-Cumming: The mention of the second creek; in the evaluation section there's a sentence that needs striking out. 'Type 3 stream known as Bear Creek flows southerly along the southwest boundary.....' to the end of the sentence. The answer to the flooding question, a portion of the site is likely in the floodplain. As part of the building permit review, that determination would be made. If where the house is, is in the floodplain, then there would be a requirement that the first habitable floor be elevated two feet above grade. From a structural point of view, that addresses the flooding question.

(#1198) Marilyn Johnston: In this area, what's the history as far as septic tanks failing?

(#1204) Pam Bennett-Cumming: I don't have the answer to that question. I know that in that area there are different types of residential structures, all the way from very large residences towards the east to smaller cabins and very small structures that have been located in that area for many, many years. It may be that some of the older cabins still have septic pits but once we get into a situation of review for the building permit that does get addressed.

(#1228) Steve Clayton: In our swapping of e-mails I came up with an ordinance where they are not allowed to grandfather in; they have to go with current standards on septic?

(#1232) Pam Bennett-Cumming: The SMP does have that provision for residential development so we defer to the Health Department in general to ensure that we're getting a septic system that meets treatment standards.

(#1238) Steve Clayton: So before they get a building permit it has to be up to current standards; has to have a reserve drainfield, etc?

(#1242) Pam Bennett-Cumming: Yes, a reserve does have to be designated. Environmental Health would

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probably be a better resource than I am. For other older sites, where we're dealing with something that doesn't even have a drainfield, those all have to be brought up to current standards.

(#1256) Steve Clayton: We didn't get a feasibility answer of hooking into the Alderbrook system?

(#1258) Pam Bennett-Cumming: One of the challenges there is that you're dealing with a sewage treatment plant that is in private ownership for a specific purpose, rather than a public treatment system. It may be something that the applicants and Alderbrook could discuss but it's not something we could require that they do as part of this review.

(#1278) Bob Sund: In the report it says that the Dalby Creek borders the east property line on the adjacent lot so does the property go to the creek or is there another ownership between them?

(#1292) Pam Bennett-Cumming: Not quite to the creek so what you're seeing there is the Johnson property then the east property line and then the creek flows through a property that's immediately to the east of the Johnsons.

(#1305) Steve Clayton: Your review said that the existing drainfield was outside the WSDOT right-of-way for the highway? And we don't have an alignment yet on a proposed Alderbrook change in that area?

(#1310) Pam Bennett-Cumming: That is correct. My understanding based on some very general information and drawings that Alderbrook has shown us is that they're looking at an alignment that is to the south of the current one but as I mentioned we have not received any applications that would require county review. The septic system is existing; it meets setbacks to the road and it does have an easement where it crosses the property line.

(#1338) Bill Dewey: I was concerned about the septic system. I was curious so I drove by the property this morning and then stopped by Environmental Health and inquired about the septic and at least by that address in the computer a new permit was obtained in 1996 and a new system was installed in 1997 for a two bedroom residence.

(#1360) Steve Clayton: As far as footprint, a lot of buildings along the canal are two story. I would guess that's to reduce the footprint in critical areas. This is a single story?

(#1366) Pam Bennett-Cumming: The applicants have proposed a single story and staff would ask that they speak to your question of footprint versus multiple story because staff did ask the same question.

(#1378) Bill Dewey: My question is related to impervious surfaces since we're going from a 820 sq ft cabin to a 2195 residence. In the HMP there's reference in the recommendation to running downspouts from the rooftop into a sump or grass-lined swale. Is there a specific groundwater system?

(#1400) Pam Bennett-Cumming: I did ask the preparer of the HMP about that. In some counties in Washington State they like to see water infiltrated into a rock filled area. It's not something that staff would necessarily support on this site because being so close to the shoreline the groundwater is fairly high and so treating and then directing it off site would make more sense rather than creating more water logged areas.

(#1422) Steve Clayton: We had an exchange on limitation of the driveway being created to be an impervious surface?

(#1424) Pam Bennett-Cumming: There is an existing driveway and it's black rock gravel and if they wanted to do something other than that, if they wanted to intensify the development, it would come under the same review under the same chapter because it's development in a stream buffer. I was discussing

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with the applicants the pathway leading to the front door and explaining that under our review we would not want to see that as concrete; it would need to be bark or something like that.

(#1464) Steve Clayton: But if they intend to blacktop or concrete the driveway they'd have to make another application?

(#1466) Pam Bennett-Cumming: We would consider that an intensification of the development and look at it under this chapter.

(#1472) Steve Clayton: Did we get a location on that fill site that's closer down to the water? It's required in the statute that it's shown on the map of where they're going to fill and it doesn't show on these diagrams.

(#1482) Pam Bennett-Cumming: I think it was such a small area but your point is well taken and we can ensure that before this goes before the BOCC that that be added to the staff report.

(#1498) Bob Sund: I understand the interest in saving the maple tree. Is there any discussion as to what the root system of that maple tree is apt to do to the foundation?

(#1502) Pam Bennett-Cumming: That's where the arborist comes in. We want the recommendations of an arborist for the development of the placement of the house and our original motive for that was to make sure that we weren't putting the applicant in a position where we said it was a good place for the house and then discovered that by doing so would have a negative impact on that root system. That's where we draw in the professional to provide that information. As to the impact of the root system on the foundation, I suppose they could speak to that as well.

(#1535) Irv Shotwell: My only comment is that I think that's a very thorough report that you put out and it was very clear and very concise.

(#1540) Theresa Kirkpatrick: We appreciate that.

(#1542) Steve Clayton: We had a brief exchange on using pressure treated lumber on that deck that's 50 feet from the stream. Is there any limitation in the current codes?

(#1550) Pam Bennett-Cumming: I know that the building code does require some pressure treated lumber for supports and other structural members underneath a deck. As to the deck itself, I don't know. If the PAC wants to either ask staff to research that further before the BOCC hearing or add a condition now, that would be fine.

(#1566) Steve Clayton: So it's something that you've seen before in a planning environment?

(#1572) Pam Bennett-Cumming: It's not something I've seen as a condition on these variances but we've only been doing these for a short time. It's good to learn new things to look at. It is something I can research if the PAC wishes.

(#1582) Theresa Kirkpatrick: I think that's a very great point because so much new information is coming out speaking to the toxicity of those products. I know when I built my house a couple of years ago the staff recommended that I treat that kind of lumber with a specific product and the product was labeled quite clearly not to be used within, I don't remember, but it's very toxic to water so I appreciate you raising that point.

(#1620) Pam Bennett-Cumming: Staff does feel that this is research that could happen without holding up the process that we're in tonight.

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(#1626) Diane Edgin: Any further questions? Would the Johnsons like to speak on this issue?

(#1642) Charles Johnson: My name is Charles Johnson and I'm here with my wife Valerie. I'm something of a transplanted but Valerie's family has been on that property for about 80 years. Our hope is to preserve and enhance it and have a nice retirement home there. The only question I might address directly is your concern about the one story structure. It's a retirement home and we're not going to get any less arthritic over the years and my sister, who is four years older than I am, would never forgive us if she didn't have a guest room on the first floor. We have tried to scale it down as much as possible and still make it viable for retirement purposes. I will defer to the architect for any specific questions you might have.

(#1682) Valerie Johnson: Grant Foster is here tonight to answer those questions. To answer the question of the septic system, it was built new in 1997 so it is up to current code. We did just have it pumped last fall and tested and everything is up to standard on that.

(#1700) Steve Clayton: Are you going to move the house; it looks like a nice cute house?

(#1702) Valerie Johnson: That was probably one of the hardest things because that house was built during the depression. Someone knocked on my grandmothers back door and was down on his luck and asked for work. She was always taking in people and helping them out so she gave him a place to stay and gave him meals and paid him \$1.00 a day and she provided the lumber and he built this all wood little summer cottage. The carpenter ants have had a field day with it over the years. It's very cute and has a lot of history. We agreed to tear that down but would rather have been able to leave it. But we have gotten over that hurdle and have agreed to tear it down once the construction is finished. We are hoping to stay in the little cabin while construction is going on.

(#1765) Charles Johnson: We are actively seeking anyone who would like to have that cabin and move it to a historical site.

(#1785) Bill Dewey: I pose a question to Grant Foster; do you have any concerns from a foundation standpoint locating that close to that large tree?

(#1792) Grant Foster: My name is Grant Foster and I'm the architect for the Johnsons. We do have concerns about that and the county staff has recommended that we get an arborist involved and I think we want to certainly do that. We've kept the foundation 15 feet away from surface of the tree but we can't see what's going on underneath the ground. I would just like to say a couple of things. Without a variance, the lot is totally unbuildable because the whole lot is within the 150 foot setback area. A variance is necessary to develop the property. The property used to be one large piece of property and was subdivided into equal sections without regard to what was there; the stream, the houses or anything so that's why we have a property line that's going through the existing house that they're living in now. They need to do something and this was the best resolution. We originally talked about moving the cabin into the property and adding on to it but it would require the same variance and I think as soon as somebody picks up that cabin they're going to have about 20 pieces of cabin and not a structure any more. To address the septic system; it's a new system that is less than five years old and it's just recently been pumped and tested and found to be in good condition. They intend to keep the existing driveway and keep the existing turn around space. The pressure treated lumber question; there are some materials that are much less toxic, especially used as decking. The problem is that they're absolutely nonstructural and that's the problem. We're still using treated wood under the deck to hold it up. They are coming out with some new treatment materials that are going to be much less toxic. The materials that they're using right now are supposed to be phased out by 2007 totally. We'll be glad to do whatever research we need to do on that. The fill area is a very small area; it's the foundation area of an old cabin that had been removed

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several years ago. That's all I have. Are there any questions?

(#1952) Steve Clayton: The pressure treated; in addition to the deck, the porch also looks to be wood so that might be a consideration.

(#1958) Grant Foster: That's the current plan. We could use concrete there possibly. The site slopes towards the water. We'll be glad to look at other materials and see what makes sense.

(#1980) Diane Edgin: Any more questions? Does anybody else wish to testify on this property?

(#1988) Gary Hanson: My name is Gary Hanson. My wife Pam and I are here to support the Johnsons on their application. We own several properties westerly of this parcel on the canal and we're really happy to see them continue on with their generational use of the property. We think they have a good plan and would encourage you to expedite the approval of this project. In this room we've all either tried to build or remodel and we know that the monsoon seasons are just around the corner so I know that would be helpful for the environment. Bill asked about the septic issues. Our two parcels westerly are both commercially zoned and we have just voluntarily upgraded our septic systems and they passed with flying colors. One other comment I might make is one of the members asked about the creek. My wife and I both have separate commercial businesses on the properties next door and I watched that creek through many 100-year storms and that creek has never exceeded its bank.

(#2070) Diane Edgin: Any other comments? Then we will now close the public hearing. Any further discussion?

(#2085) Bob Sund: I'd like to recommend conditional approval of the variance.

(#2098) Marilyn Johnston: I'll second the motion.

(#2100) Bill Dewey: Do we want to recommend to staff that they look at the concept of the integrated pest management before this goes to the BOCC?

(#2112) Steve Clayton: That could be researched along with the pressure treated wood.

(#2120) Diane Edgin: I agree with that. We have a motion and a second. All in favor?

(#2135) Steve Clayton: Do we want to put that in as a condition, Pam?

(#2140) Pam Bennett-Cumming: It could either be a condition or you could simply direct staff to talk to the author of the HMP to ensure that the recommendations are made for pest management.

(#2152) PAC: That sound fine.

(#2155) Diane Edgin: Do you want to adopt that as part of the motion?

(#2158) Bill Dewey: Yes.

(#2165) Bob Sund: I will make that a part of my motion.

(#2170) Diane Edgin: All in favor of the motion? Motion passed. The only other piece of business is to elect a Vice-Chair. Do we have any recommendations?

(#2244) Irv Shotwell: I'd like to recommend Bill Dewey.

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(#2255) Diane Edgin: Do we have any other recommendations? Nominations are closed. All in favor? Bill Dewey is new Vice-Chair.

(#2285) Bob Fink: An issue came up about someone that didn't have an opportunity to read something in the record and when that happens we discussed you want to make sure that you allow time for that. He did have the time to do that but you will need to be aware that we are trying to build a record in case there are future appeals or other actions so if something comes out that people clearly haven't read you need to make sure that you're explicitly allowing time for them to do that.

(#2328) Darren Nienaber: If you receive anything from staff on the day of the hearing make sure you read it and if it seems like the hearing is just carrying forward and you haven't had a chance to read it, ask your Chair to take a break to make sure you can read it. It's helpful for the record.

(#2366) Bob Fink: We revised the staff report to provide a summary statement at the beginning of the staff report. We're doing this in an attempt to address some of your concerns that you expressed last month. You talked about pros and cons and about having the information that you need to review what you're doing up front. I hope you found it helpful.

(#2405) Marilyn Johnston: Pam's report reads very well; it was the easiest of all to read so if you're looking at a format I would heartily recommend you take a close look at that.

(#2418) Diane Edgin: As we talked earlier, make sure that the map are more clear.

(#2436) Bill Dewey: I drove out to the Johnson site this morning because the photographs were not clear enough to really understand the site. So if we could get clearer photos that would be helpful.

(#2452) Marilyn Johnston: Maybe they could bring the actual photos and have them available to look at.

(#2470) Bob Fink: We'll point that out. One last item to talk about is that there were questions that came up and they did call staff and I'm glad that they did. Generally if questions are dealing with clarifications, like what does this exhibit show, would you explain this regulations; those kinds of clarifications would generally be between the person wanting to ask the question and whoever was trying to address it. We wouldn't try to put that on the record. If a question came up that was specific to the project and had some applicability to what the decision was, then we would want to get that on the record. The best way to do that is in the written form or in the presentation and discussion of the PAC and staff. Sometimes when people ask questions everyone else was wondering, too, so that's fine. It's okay to bring up something but it's 8:30 now and it took 2 ½ hours to do six cases. That's not too bad and this was your first go around. You took it well and treated it very thoroughly. I would expect that as you get more experienced the cases will be much shorter and with less discussion. If some of these questions can be addressed before hand then it will save time, too, in the actual meeting.

The last item I have is that we did receive today, and it was issued last Friday, one of the decisions by the GMHB on the county's Comprehensive Plan and Development Regulations. I brought in copies to pass out. Since we just got it today we really haven't had any time to absorb it all ourselves. The decision did remand some issues to the county to address and they maintained invalidity over the rural commercial designations that the county made. So those areas that the county designated as Rural Commercial 1, 2 and 3 they did keep that invalidity. The rest of it is no longer invalid; Rural Industrial and Rural Tourist sites ....

(#2740) Darren Nienaber: If you read the order at first it sounds bad. When you get to the end, they lifted the invalidity of 99% of the county of the rural areas. Before we were invalid across the entire rural area.



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Now we're invalid with respect to 250 parcels that were designated Rural Commercial. So in a way it's a far, far better position that we were in before. The other good news is that we're pretty clear about what has to be done to fix those 250 parcels. We're going to have to spend a lot of time on a much narrower set of parcels. What we have to do is prepare a Supplemental EIS and map each one of those parcels. We have to bring a map of each one to the GMHB and say that we know where they're at.

(#2816) Bob Fink: Although they didn't let us off the hook entirely, overall the decision was very favorable. They basically accepted the rationale and the actions of the county with the exception that they want certain things spelled out better and analyzed clearly and openly.

(#2840) Steve Clayton: Bob, I sent you an e-mail with exchanges I've had with the planning staff and the question was whether or not we could exchange those within the group outside of the meeting, or should it go through you?

(#2850) Bob Fink: You have to differentiate between quasi-judicial actions and legislative actions. You have to be very cautious with quasi-judicial actions that everything that's being considered is properly put on the record. There is also some concern I would have with the effect of e-mail on the open meetings law, where you have a committee sending things by e-mail and they make up a quorum and is that a meeting or not. I think those are open questions and if you take the uncertainty about that together with the desire to get these things on the record I think that it would be better that you not e-mail each other. If you want to communicate with the other PAC members it would be better if you sent it to us or brought it to us and let us communicate it to all the members and also keep a copy of it in the record. Diane had brought something today that we passed out and I think that is a more appropriate way.

Meeting adjourned.