

## ISLAND COUNTY COMMISSIONERS - MINUTES OF MEETING

### SPECIAL & REGULAR SESSIONS - DECEMBER 8, 1997

The Board of Island County Commissioners met in Special Session beginning at 9:00 a.m. in the Island County Sheriff's Office for the purpose of conducting an Executive Session to discuss with legal counsel pending and/or potential litigation as allowed under RCW 42.30.110(1)(I). Final action, if any is deemed necessary on this matter, will be announced in an open public meeting.

The Board of Island County Commissioners (including Diking Improvement District #4) met in Regular Session on December 8, 1997, beginning at 9:30 a.m., in the Island County Courthouse Annex, Hearing Room, Coupeville, Wa. Mike Shelton, Chairman, Wm. L. McDowell, Member, and Tom Shaughnessy, Member, were present. Also in attendance were Margaret Rosenkranz, Clerk of the Board, and J. L. Ford, Acting Secretary to the Board. Minutes from the Regular Meeting held November 3, 1997, were approved and signed.

#### VOUCHERS AND PAYMENT OF BILLS

The following vouchers/warrants were approved for payment by unanimous motion of the Board, including November Payroll and Veterans Assistance Claims that follow:

**Voucher (War.) # 16067 - 16325..... \$ 256,054.83**

**Veterans Assistance Claims.** [emergency financial assistance to certain eligible veterans; the names and specific circumstances are maintained confidential]. The Board, by unanimous motion, accepted the recommendation of the Island County Veterans Assistance Review Committee resulting in the following action:

V97-41 Approved in the amount of \$75.00; V97-43 Approved in the amount of \$631.24

#### EMPLOYEE OF THE MONTH, NOVEMBER, 1997

Karen Torbergson, Superior Court

#### HIRING REQUESTS AND PERSONNEL ACTIONS

As presented for action by Dick Toft, Director, Human Resources, the Board by unanimous motion authorized the following personnel action authorizations:

PAA #122/97 District/Municipal Court Clerk; Position #1005.00, replacement action, effective 01/09/98

#### HEARING HELD: RESOLUTION #C-71-97 - Emergency Appropriation

##### to various 1997 Island County Fund Budgets

As scheduled at the Boards meeting of November 17, 1997, a Public Hearing was held at 9:50 a.m. for the purpose of receiving public input on the proposed adoption of Resolution #C-71-97, an emergency appropriation in the 1997 Island County Current Expense Fund, Motor Pool Fund, Drug Fund, Alcohol & Substance Abuse Fund, Public Health Pooling Fund and Diking Improvement District 4 Fund Budgets.

With no public input offered at this time, by unanimous motion the Board adopted Resolution Number C-71-97 in the matter of Declaring an Emergency Appropriation to the Current Expense; Motor Pool; Drug, Alcohol & Substance Abuse; Public Health Pooling and Diking Improvement District 4 Fund Budgets.

#### ACCEPTANCE OF DONATED PROPERTY - NORTH BLUFF ROAD

Lee McFarland, Assistant GSA Director and Parks Superintendent, appeared before the Board to present necessary documents to complete transfer of a parcel of property 1.24 acres in size from Charles B. Wrench to Island County, described as:

The East 482 feet of the West 550 feet of the North 130 feet of the South 430 feet of Government Lot 4, Section 4, Township 30 North, Range 2 East of the Willamette Meridian, except the east 68 feet thereof.

Mr. McFarland advised that the property was deemed as having good potential for future county use for such as low income housing or similar, and that the Grantor, Mr. Charles B. Wrench, no longer desired to own property in Island County. In response to Commissioner McDowell's inquiry, Mr. McFarland confirmed that there is legal access to the property.

The Board, by unanimous motion, moved to sign the necessary documents to complete the transfer and accept the donation of said property to Island County.

**APPROVAL OF CONTRACT AMENDMENTS BETWEEN ISLAND COUNTY  
AND SKAGIT MENTAL HEALTH**

As submitted by the Island County Health Department, the Board, by unanimous motion, approved the following contract amendments between Island County and Skagit Mental Health:

- a) Contract Amendment HS-04-95(1A); b) Contract Amendment HS-04-95(2A);
- c) Contract Amendment HS-04-95(3A); d) Contract Amendment HS-04-95(4A); and
- e) Contract Amendment HS-04-95(5).

**PUBLIC INPUT**

George Aller, 2168 N. Fairway Lane, Oak Harbor, (675-6775 or 675-5678) appeared before the Board to express his concern with the address change policy and process which he and his neighbors had been through with regard to the road name change of Fairway Lane, and in particular the fact that they were never advised of their right to appeal the decision of ICOM to the Board of County Commissioners.

During the meetings held on the name change, he and his neighbors had presented a plan which they felt to be a good and logical solution to the situation that would affect the least number of people who live on Fairway Lane. However, ICOM rejected the plan by a vote of 3 to 5 because the odd and even numbered houses were being proposed in a manner that was opposite

of the way the entire system is being established for emergency response in Island County, and indicating that they could not take action that would set a precedent for future action. At this time, Mr. Aller is asking for a "stay" or at least a time extension for finalization on this road name issue because they were not fully advised of their rights.

The Board agreed they would like to look into this issue further and would get back to Mr. Aller with a response.

**PUBLIC HEARING: ORDINANCE NO. R-57-97 RENAMING MISCELLANEOUS COUNTY ROADS ON WHIDBEY ISLAND  
(Continued from 10/27/97)**

At 10:15 a.m. as advertised, a Public Hearing was held to consider adoption of Ordinance No. R-57-97 renaming several miscellaneous roads on Whidbey Island. Attached to the ordinance was the revised Exhibit A, changed according to decisions and action taken at the Board's hearing held October 27, 1997.

Rich Murphy, ICOM was present to ask the Board to reconsider the decision made at the earlier meeting with regard to the renaming of Keystone Road, Mary and Marie Way, and presented a map to the Board to illustrate the situation involving these roads.

**Keystone Road**

Mr. Murphy explained with regard to Keystone Road and Keystone Avenue, ICOM and all emergency response personnel would like to see Keystone Road changed to Keystone Hill Road to better delineate the two roads and help with the confusion the names have caused in the past. To better explain the types of problems encountered, the Fire Chief from District Number 5 was present today.

Joe Biller , Fire Chief for Fire District Number 5, strongly encouraged the Board agree to change the name of Keystone Road to Keystone Hill Road to help better define Keystone Avenue that runs along the beach from Keystone Road which runs up the hill. He can recount many, many incidents where emergency response personnel were called and all the caller managed to say for the address was "Keystone". Due to the entire length of "Keystone" combined, they have wasted valuable minutes responding to emergencies.

E. J. Millenbach, 1023 S. Keystone Road, advised of his strong opposition to changing Keystone Road to Keystone Hill Road due to the fact that he has had numerous problems with the Post Office as it is and because vandals keep destroying his mail box. It was his recommendation that Keystone Avenue be changed to Keystone Beach Road instead because that would specifically delineate that road as running along the beach.

Margie Millenbach, 1023 S. Keystone Road, echoed the sentiments of E.J. , objecting to their being the ones who must change their address to make the situation clearer. The change to Keystone Beach Road would do just as much if not more to make the name more descriptive.

Rich Murphy advised that the address committee was aware of the historic significance of this road name and originally left it as is because of that. However, problems were recurring and although dispatch at the ICOM center can differentiate the location when a person calls in an emergency from their home, they cannot ascertain the location if a person calls from a cell phone. For instance, someone unfamiliar with the area may be driving by and see a house fire they call in, and the last name they can remember is simply Keystone. With regard to changing Keystone Avenue

to Keystone Beach Road, Mr. Murphy advised that the decision was made to go with Hill Road due to the large difference in the number of people who would be affected by such change.

Commissioner McDowell was of the opinion that since this is a 100 year old road name, it should be kept the same for historical significance.

Commissioner Shaughnessy reminded of the multiple and continual problems encountered by emergency response personnel, and the goal of the entire readdressing project being to eliminate as much as possible the confusion over road names that delayed response to those time critical emergency calls.

Commissioner Shelton advised that following the Board's original hearing on October 27th, he received a call from ICOM expressing their concern that the problems encountered with this road name were significant enough to warrant bringing back before this Board for reconsideration to eliminate the confusion. While he can appreciate the problems that road name and address changes pose for existing residents as well as the historic significance of the existing road name, the Board has today heard from various members of emergency service / response organizations urging the Board to help them to better do their jobs saving lives and property by providing clearer delineation of these two roads and approving this road name change.

It was moved by Commissioner Shaughnessy, seconded by Commissioner Shelton and carried by majority vote to approve the road name change from Keystone Road to Keystone Hill Road. Commissioner McDowell voted in opposition.

### **Mary Way & Marie Way**

Richard Murphy reported that although they had originally proposed changing both Mary Way and Marie Way to Martha Way all the way around, following conversations with residents and emergency service personnel they were now recommending only the change of Mary to Martha leaving Martha and Marie name as they were different enough in sound so as not to be confusion over an emergency phone call. In addition, Mr. Murphy pointed out that there is only one resident on Mary way and after sending an individual notification of potential road name change, they heard nothing back from the one resident.

Marv Koorn, Fire Chief for Fire District #1, encouraged the Board approval of this change and eliminating the road name of Marie as the names Marie and Mary are very similar sounding over a cell phone or pager with any hint of static, and because the two are so close in proximity, it is very difficult to distinguish the two.

By unanimous motion, the Board approved the change from Mary Way to Martha Way.

It was then moved, seconded and carried unanimously to approve Ordinance Number R-57-97 in the matter of renaming miscellaneous county road on Whidbey Island with the two changes to Exhibit A as approved this date.

## **BEFORE THE BOARD OF COUNTY COMMISSIONERS**

### **OF ISLAND COUNTY, WASHINGTON**

IN THE MATTER OF RENAMING )

MISC. COUNTY ROADS WHIDBEY ) **ORDINANCE NO. R-57-97**

ISLAND )

WHEREAS, The Board of County Commissioners adopted Ordinance No. C-32-96

(Interim 9-1-1 Addressing Policy) which allows the County to address the renaming of roads to avoid confusion; and

WHEREAS, the Board of Island County Commissioners has been requested by

I-COM to rename the roads listed on Attachment "A";

WHEREAS, the renaming of said roads as shown would not be duplicating existing road names in Island County;  
NOW, THEREFORE,

BE IT HEREBY ORDAINED by the Board of County Commissioners of Island County, Washington:

1. That the County roads listed on Attachment "A" shall be renamed effective 45 days from the date of passage.

2. Island County Public Works shall fabricate and install a road sign to be posted on the effective date.
3. I-COM shall notify, by mail, owners of property abutting on the road of the public hearing date, and the name change, address number change, if any, and the effective date of this ordinance.
4. I-COM shall also notify appropriate agencies of the road/street name change, the effective date, and shall notify appropriate County departments so that County maps will show the changes.

REVIEWED this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, and set for public hearing on the **27<sup>th</sup>** day of **October, 1997** at **2:15 p.m.**

BOARD OF COUNTY COMMISSIONERS

ISLAND COUNTY, WASHINGTON

Mike Shelton, Chairman

Wm. L. McDowell, Member

Attest: Margaret Rosenkranz, Tom Shaughnessy, Member

Ex-Officio Clerk of the Board

ADOPTED this 8th day of December, 1997, after public hearing.

BOARD OF COUNTY COMMISSIONERS

ISLAND COUNTY, WASHINGTON

Mike Shelton, Chairman

Wm. L. McDowell, Member

Tom Shaughnessy, Member

Attest: Margaret Rosenkranz, County Auditor

& Ex-Officio Clerk of the Board

**ATTACHMENT "A"**

<b>Existing Name</b>	<b><u>Road Log No.</u> Mile Post</b>	<b>Description of Road Section</b>	<b><u>Proposed Name</u></b>
Fairlane Place	RL # <u>56345</u>	Intersects Swantown Avenue (Plat of Fairway Estates) (NE 4-32-1E)	Thornberry Drive
Bush Point Road	RL # <u>92250</u>	From Scurlock Road to Vista Drive (Secs. 5, 6, 8-29-2E)	Smuggler's Cove Road

Meadow Road	RL #02480	Entire length (Plat of Highland Meadows) (NE 35-29-3E & NW 36-29-3E)	Rollinghill Road
Keystone Road	RL #45550	From Patmore Road to Wanamaker Road (Secs. 1, 2, 11, 12, 13 & 14-31-1E)	Keystone Hill Road
Unnamed Road	RL #18090	Entire length – alley connecting Center St. and Fir Street (Plat of Saratoga (NE 19-30-3E)	Bells Ridge Lane
Windmill Lane	RL #26350	Entire length. (Plat of Windmill Heights (S½ 8-29-2E)	<del>Argosy Way</del> (No change)
Windmill Road	RL #26350	Entire length – from plat of Windmill Heights to Bush Point Road (S½ 8-29-2E)	Windmill Drive
Mountain View Road	RL #31910	Entire length. (Plat of Lagoon Point, Div. #1) (SW 18-30-2E & NW 19-30-2E)	<del>Buccaneer Drive</del> Westcliff Drive
Ronald Promenade	RL #31910	Entire length. (Plat of Lagoon Point, Div. #1) (SW 18-30-2E)	Ronald Promenade Lane
Unnamed Road	RL #55550	Entire length – between Canterbury Lane & Rainier Lane (Plat of Scenic Heights, Div. #1)( S½ 14-32-1E)	Dupont Road
Maple Avenue	RL #None	Entire length. (Plat of Whispering Firs) (NE 11-29-2E)	Willow Lane
Beach Drive	RL #16450	Between intersections of Arella Place and Alder Avenue (Plat of Beverly Beach, Div. #2)  (S½ 26-30-2E)	Beverly Beach Road
Paradise Road	RL #16362 & #16364	Entire length. (Plat of Skyline West Div. #1) (NW 36-30-2E)	Nautilus Road
Sealawn Boulevard (Ptn.)	RL #30520	Cul-de-sac area intersecting Sealawn Blvd. (Plat of Bar Harbor, Div. #1)  (NW 3-29-2E)	Bar Harbor Court

North Bounty Road, South Bounty Road, West Bounty Road	RL #28140	Entire roads. (Plat of Mutiny Bay Park, Div. #1) (NW 4-29-2E)	Bounty Loop
Main Street	RL #28030	From Sandpiper Ln. to Scurlock Rd  (Plat of Bush Point) (N½ 6-29-2E)	Spyglass Drive
First Street	RL #28730 & #28320	Entire length. (Plats of Bush Point and Lighthouse Shores)  (N½ 6-29-2E)	Magellan Drive
Scenic Avenue/ High Street	RL #29140	Entire length. (Plat of Bush Point)  (N ½ 6-29-2E)	High Street
Fir Street	RL #21051	Entire length. (Plat of Mutiny Bay Hts. First Addn.) (N½ 22-29-2E)	Elm Place
Fir Street	RL #31350	Entire length. (Plats of Arcadia and Howell's Waterfront Tracts)  (N part 22-30-2E)	Arcadia Road
Mary Way	RL #51370	Entire length. (Patton's Hide-Away, Div. #2) (NW 18-31-1E)	Martha Way
Marie Way	RL #51370	Entire length. (Patton's Hide-Away, Div. #3) (NW 18-32-1E)	Martha Way  (No change)
First Avenue	RL #18190	Entire length. (Plat of Saratoga)  (NE 19-30-3E)	Morning Glory Lane

**CONTRACT/BOND - CAMANO WATER SYSTEM PROJECT**

By unanimous motion, the Board approved acceptance of contract/bond with Strider Construction Co., Inc., for the Camano Water System project; bid awarded 11/24/97.

**BID AWARD FOR TWO ARTICULATED LOADERS TO WESTERN**

**POWER & EQUIPMENT, KENT, WA.**

As presented and recommended by Larry Kwarsick, Island County Public Works Director, the Board by unanimous motion approved Bid Award in the amount of \$153,878.76 for two articulated front end bucket loaders to Western Power & Equipment of Kent, Washington.

**BID AWARD - MABANA ROAD SHOULDER REPAIR TO LYRCH & ASSOCIATES**

As presented and recommended by Larry Kwarsick, Island County Public Works Director, the Board by unanimous motion approved Bid Award in the amount of \$17,195 for Mabana shoulder repair under work order #142 to Lyrch & Associates, Mount Vernon, WA.

**ADOPT-A-ROAD LITTER PROGRAM AGREEMENTS**

As presented and recommended for approval by the County Engineer, the Board by unanimous motion approved the following Agreement for Adopt-A-Road Litter Control Program with FASO, NAS Whidbey Island, for **Ault Field Road** from Heller Road to Oak Harbor Road.

**BOND RELEASE – COMPLETION OF BOND REQUIREMENTS FOR WATERLINE**

**UNDER SHP 051/96 FOR MARILYN BAILEY**

By way of memo dated December 1, 1997 to the Board, Allen, Island County Engineer, recommended the Board release bond in the amount of \$2300 required for the completion of waterline per SHP 051/96 by Marilyn Bailey. The Health Department has indicated no objection to release of subject bond.

By unanimous motion, the Board approved the release of bond required under SHP 051/96 in the amount of \$2300.

**RESOLUTION NUMBER R-61-97 IN THE MATTER OF ADOPTION OF THE ANNUAL ROAD CONSTRUCTION PROGRAM FOR THE YEAR 1998**

Larry Kwarsick presented for Board approval resolution number R-61-97 in the matter of adoption of the annual road construction program for the year 1998, advising that adoption of same would allow for timely repair of roads listed under the FEMA grant.

By unanimous motion the Board approved for signature Resolution Number R-61-97 adopting the Annual Road Construction Program for 1998.

BEFORE THE BOARD OF COUNTY COMMISSIONERS

***OF ISLAND COUNTY, WASHINGTON***

IN THE MATTER OF ADOPTION OF )

THE ANNUAL ROAD CONSTRUCTION ) RESOLUTION R-61-97

PROGRAM FOR THE YEAR 1998 )

**WHEREAS**, it is required by RCW 36.81.130 that the Annual Road Construction Program be adopted prior to the Annual Budget; and

**WHEREAS**, the Six-Year Transportation Improvement Program was adopted at public hearing as required by law on June 23, 1997; and

**WHEREAS**, the Board of County Commissioners has reviewed the work accomplished under the current Six-Year Program to determine current needs in order to revise and extend the comprehensive road program; **NOW, THEREFORE**,

**BE IT HEREBY RESOLVED** that the attached list of projects as selected from the aforementioned Six-year Transportation Improvement Program with 1998 Proposed Equipment Purchases by ER&R Fund be adopted.

**PASSED BY UNANIMOUS VOTE AND ADOPTED** this **8<sup>th</sup>** day of **December, 1997**.

BOARD OF COUNTY COMMISSIONERS

ISLAND COUNTY, WASHINGTON

Mike Shelton, Chairman

Wm. L. McDowell, Member

Tom Shaughnessy, Member

ATTEST:

Margaret Rosenkranz, Clerk of the Board

**HEARING HELD: NON-RESIDENTIAL/MIXED USE AREAS OF MORE**

**INTENSIVE RURAL DEVELOPMENT**

A Public Hearing was held at 10:45 a.m., as scheduled and advertised, to consider the recommendation of the Island County Planning Commission on the issue of Non-Residential/Mixed Use Areas of More Intensive Rural Development. In addition to Board members, Planning Commission members, consultants and staff, there were approximately 14 people in the audience. A attendance was circulated and on file. Hearing Record Instructions were read by the Chairman.

Documents/Correspondence entered for today's record received prior to the hearing:

**Submitted By Subjects Covered**

1. Larry Kwarsick 11/25/97 Thurston County Non-Municipal UGA

2. Larry Kwarsick 12/3/97 County Wide Planning Policies

3. City of Langley 11/26/97 Comprehensive Plan and Compliance

Schedule/several areas where the County

and the three municipalities have a mutual

interest

4. David C. Johnson 12/1/97 Population Allocations and carrying capacity

(infrastructure) information when making decisions

on increasing density in RAIDS and non municipal

UGAs

5. Mary Petry 11/26/97 Tax Lot 23 on map, page 302, includes her

property – would like it to remain commercial

6. Tom Roehl 11/28/97 Limited Non-Residential/Mixed Use Areas of

More Intensive Rural Development,

Commentary provided in bold, underlined italic text

7. Wm. H . Sievers/Robert Olson Non-Residential: Re preliminary zoning map &

12/3/97 SPR 079/94 – request re-identify this property on

the map as NR

8. Planning Commission Recommendation 12/5/97 [with page 39 from EDC report cited]

9. Planning Commission record of public documents submitted 12/2/97

10. Issue Paper Workshop Draft and attachments 11/26/9

**Added today:**

11. Island County Citizens Growth Management Coalition Working Paper #3

12. Attendance Sheet

**Planning Commission Recommendation**

Bill Vincent, Island County Planning Commission, read the recommendation of the Island County Planning Commission for the record, dated 12/5/97:

"Following a thorough analysis regarding the issue of non-residential and mixed-use limited areas of more intensive rural development, including a Workshop on November 26th, 1997 and a Public Hearing on December 2nd, the Planning Commission recommends the following:

A. Recommended Non-residential and Mixed-use Designation Criteria. The following criteria shall be used for the preliminary designation of Non-residential and Mixed-use RAIDs:

*General Criteria*

The starting point for designation will be the Business and Land Use Review Committee's recommended boundaries that accompany the Island County Economic Development Council report entitled Business Land Use Needs for Island County to the year 2016, May 17, 1996. This starting boundary may be adjusted inward or outward based on the remaining criteria.

Uses in existence prior to July 1, 1990 and those established from July 1, 1990 to April 10, 1996 will be shown on the staff analysis maps. All uses established prior to April 10, 1996 will be included in the final RAID boundaries upon consultation from legal counsel.

Provision of sufficient land to provide a transitional buffer, if necessary, between non-residential uses and neighboring rural and residential uses.

*Exclusions and Limitations*

Institutional Government Uses will be excluded from a RAID area unless the exclusion would create an abnormally irregular boundary.

County-wide, the sum of land acreage designated as a Non-residential RAID and the portion of non-residential land within a Mixed-use RAID shall not exceed the EDC estimated non-residential need of 782 acres allocated for unincorporated Island County (see EDC report, page 39). Transitional buffers shall not be included in the acreage calculation.

*Additional Items to be Used for Consideration*

Preservation of the character of existing natural neighborhoods and communities based on the following components: name of an area; age; size; location; density; commercial/industrial floor area; historical growth rate; commercial development; community facilities and services; assessed valuation; landmarks; viewscales; and physical boundaries.

Consideration of physical boundaries such as: bodies of water; streets (on a limited basis); arterial highways; land forms and contours; critical areas (wetlands, floodplains, steep slopes, eagle habitat, heron habitat, fishbearing streams, and areas of high aquifer recharge potential); and boundaries of designated resource lands.

The prevention of abnormally irregular boundaries by following long plat, short plat and parcel lines in a manner that minimizes areas of a meandering boundary. The ability to provide public facilities and public services as determined by the proximity to designated road and highway transportation routes, and the reasonable proximity to a water system capable of meeting present and future needs.

Water and sewer service boundaries.

Level of existing development within RAID.

Residential densities in surrounding areas.

Location along transit corridor (for Mixed-use RAIDs only).

Land use plan policies and objectives.

*Allowed Residential Densities and Non-residential Intensities.* Allowed residential densities in Mixed-use RAIDs and commercial and industrial intensities within Non-residential and Mixed-use RAIDs will be determined by the existing development pattern, existence of infrastructure and neighborhood/community character.

*Non-conforming Lots.* Those parcel(s) that do not meet the criteria of Non-residential and Mixed-use RAIDs but have already been granted some type of development approval (i.e. permit, water rights, etc.) shall become non-conforming lots.

*Age of Area/Use.* The date of complete application constitutes vesting of a property or use.

*Major Industrial Development and Master Planned Resort.* A major industrial development or a master planned resort is not

allowed in a Non-residential or Mixed-use RAID unless otherwise specifically permitted under RCW 36.70A.360 and 36.70A.365. These topics will be covered at the January 9, 1998 Workshop.

B. Non-residential and Mixed-use Categorization. The following are the preliminary Non-residential and Mixed-use categorization for the RAIDs delineated using the criteria outlined above.

*Area Preliminary Designation*

Deception Pass Mixed-use

Coronet Bay Mixed-use

South of Coupeville Non-residential

Greenbank To be determined

Greenbank Farm Non-residential

Freeland Mixed-use

Bayview Mixed-use

Whidbey Air Park Mixed-use

Ken's Corner Non-residential

Clinton Mixed-use

Wes Lupien Non-residential

Camano Air Strip Mixed-use

Camano Gateway Non-residential

Terry's Corner Non-residential

Camano Plaza Mixed-use

Camano Annex Non-residential"

**Tom Roehl, Project Planning Services, Freeland.** Mr. Roehl brought up the question of contract rezones, and recalled that in the Seventies Island County adopted a policy that there be no more blanket rezones under the old zoning ordinance, and every rezone then was a contract rezone, a written contract between the County and the land owner. To save argument in the future, he thought it would be wise to address that issue. He recommended adding an item #10 under Additional Items to be Used for Consideration, on Page 2, as follows: " Properties subject to currently valid contract rezone between Island County and the land owner".

On page 1, he questioned the wisdom with regard to county wide the sum of land acreage limited to 782 acres and wondered why there needed to be a limit if the County was simply adopting the designation criteria. The County may find during the process there may be more than that so he thought it wiser to leave some flexibility about that fixed number of acres. Page 2, "Non Conforming Lots" he thought should be changed to "Non Conforming Lots and/or Uses" and also the end should be "non-conforming lots and/or uses".

**Larry Harris, E. Lancaster Road, Freeland, representing Citizens Growth Management Coalition.** Presented the Citizens Growth Management Coalition Working Paper #3 on the subject of Non Residential Mixed Use RAIDS. He emphasized that the Comp Plan must be based on careful analysis of the County's development carrying capacity. The maximum utilization of land, water, transportation, waste management, and other needed developmental infrastructure can be made without irreparable damage to the County's economy it's environment and quality of life. He also emphasized the need for a vision statement to guide construction of the Plan, and not put together after the fact. The EDC report of May, 1996 places considerable significance on the idea of a vision plan *"our rural environment and quality of life must be preserved and where possible enhanced. The rural quality is a direct economic asset"* and the Coalition found much to commend in that report especially having to do with boundaries they considered important. With regard to the concept of logical outer boundaries for non residential and mixed use, very strict conservative standards must be adhered to and a strict interpretation of the GMA goals should be followed in every case where boundaries are considered, in particular GMA goals #1, 2 and 12 . Mr. Harris referenced RCW 36.70A.070(5)© dealing with measures to protect rural character. Although the two items in that RCW are suggested as voluntary, the Coalition requests that the County consider them mandatory to assure visual compatibility of rural development with the surrounding rural areas and to reduce inappropriate conversion of undeveloped land into sprawling low density development in rural area. In general, the Coalition believes that:

1. the non residential mixed use RAIDS represent locally owned and operated businesses and should be given preference over large chains of National commerce
2. the comp plan take into consideration the changing work pattern in Island County, i.e. foot loose nature of the work force and that emphasis and encouragement be given to home industries
3. comp plan reflect the need for a county wide and local design review standard.

**Rufus Rose, South Whidbey, Member, Island County Planning Commission.** Mr. Rose supported Mr. Vincent's report on behalf of the Planning Commission. On line 26 and 27 of the Recommendation, the figure of 782 acres allocated for unincorporated Island County, he understood that that number originally contemplated not including the buffers. In discussion about this at the Planning Commission meeting he thought the notion of adding buffers internal to the mixed use RAIDS rather than requiring people outside them to be a buffer, so that number may be adjustable upwards so that buffers would be included in the mixed use RAID.

Vince Moore stated that the EDC report initially did not contemplate buffer questions in terms of their computation of the raw land requirement for commercial use. That issue was discussed at the Planning Commission meeting, and the one concept being that the outside land owners would not be required to provide that buffer but to adhere to the EDC projection of the commercial land needs that lands would be incorporated and designated as commercial or be set aside for buffer purposes.

Mr. Rose thought 782 acres was a valid number based on the EDC recommendation but EDC that had not considered the newer thought that the buffer should be part of the commercial designation. On lines 35 and 36 regarding the consideration of physical boundaries and inclusion of eagle habitat and heron habitat, he thought that may be variable: physical but on a variable basis. He encouraged the Board consider at least some of the recommendations made by Steve Lehman who has made presentations to Mr. Rose and other groups about the compatibility of eagles and heron specifically.

**Bill Applegate, Oak Harbor.** Mr. Applegate had concerns about General Criteria stating that "This starting boundary may be adjusted inward or outward based on the remaining criteria"; therefore he asked about the remaining criteria. Concern here is adjusting the boundary outward forever which eventually could include all of Island County.

Mr. Vincent stated that one of the concerns the Planning Commission had when they reviewed the report was the time period in which the report was done and some areas not called out completely, thus the report was used as a starting point. One of the concerns brought up by a citizen was the ability of moving in or out of some of the areas used for development for the commercial environment and the Commission did not know whether the EDC report actually had too much land in it or whether in some areas they may not be enough. Flexibility was desired and why they used the term beginning on line 13 "The starting point for designation will be the Business and Land Use Review Committee's...". The Commission felt the 782 acre figure would probably be enough for the 20 years but were not sure and did not want to lock the county into that number, but had to identify that number inasmuch as it was in the EDC Report.

Chairman Shelton stated that it was his understanding that this adjustment would occur prior to the adoption of the Plan, because once the boundaries of the RAID are adopted those boundaries cannot be adjusted outward.

Mr. Moore commented that it was basically to update the EDC report projection because the Plan has been extended out to 2020 and realized there would be 4 more years of development projection to add to it [rounding off and make all of the projections easier].

Mr. Applegate referred to line 36 talking about areas of high aquifer recharge potential, and said that to the best of his knowledge the County had not mapped out those areas yet.

Chairman Shelton recalled that one of the things discussed at a prior hearing was the need to be more clearly defined those terms such as aquifer recharge areas, wildlife habitat, etc., and his personal opinion was that those areas need to be defined, and also defined clearly on a map.

One thing that Mr. Moore brought up was there actually are maps showing high, moderate and low aquifer recharge areas prepared as part of the Groundwater Management Study; those maps have been presented before to the Planning Commission and will be construed somewhat like the wetland maps-- non regulatory, with the actual field situation to control. Aquifer recharge is actually based on soil capabilities and soil classes.

Commissioner McDowell was not concerned about the idea that these items would have black and white legal significance because they are under the subtitle "Additional areas to be used for consideration"; remember that consideration can be a yes or no answer and not an exclusion or approval.

Mr. Applegate, at the top of the next page, referred to the area where Mr. Roehl asked to include all

properties with contract rezones. He believed the Commissioners first should see a list of those properties before deciding to remove same. When the Planning Department finally draws a map that shows all the long plat RAIDS and PRD RAIDS, Clinton and Freeland RAIDS and the 16 listed, he thought that much of Island County would be covered by RAIDS and not many rural areas and will be separated by these areas of RAIDS. He thought the Board should consider that and look at the map before finally agreeing on all of the RAIDS.

**Bill Vaux, Anacortes, representing Howard and Shirley Dorsey, his employer.** Mr. Vaux was interested to know if all of these had been mapped – or just how would he know where these areas on Camano Island are? As far as the criteria listed he wondered about property currently taxed at a commercial rate but zoned Residential Ag or Forestry, since his employer has such a parcel. As to the specific parcel number and particulars of the property, they already responded with that information when the County sent out notice some time ago and is of record already.

Mr. Moore stated that the areas were noted in the EDC Report and also on a map in the staff draft with appendix.

**Tom Roehl.** Mr. Roehl clarified his comments about the 782 acres on line 25 page 1 referencing back to the last sentence of #1, by saying that since this is a preliminary process, instead of making that iron clad, insert instead of "shall" substitute "is expected not to exceed". With regard to aquifer recharge areas, he served on the Groundwater Management Advisory Committee and has those maps. That those maps should be used like the wetland maps as indicators and the land owner have to prove is a definite concern - in the wetlands process that is costly, and in refuting whether an area is high, medium or low recharge would involve large expenses.

Commissioner Shaughnessy emphasized the fact that these are preliminary designations. Page 1, line 25, item 2, caused him some concern, that County-wide, the sum of land acreage designated as a Non-residential RAID and the portion of non-residential land within a Mixed-use RAID shall not exceed the EDC estimated non-residential need of 782 acres allocated for unincorporated Island County (see EDC report, page 39). The first thing this morning he requested a copy of page 39 in order to see that information. While he remembered reading the report in the past, it had been over a year, and even page 39 did not delineate all information he wanted to see. Until he is able to take a hard look at that report and review the overall acreage, he was uncomfortable specifying that number. He was also uncomfortable reading on Page 2, lines 13+ with regard to the areas that have been identified, in that he could come up with at least 4 or 5 more areas on Camano Island that probably should be identified. If not identified here or in the EDC report, then he did not know that the 782 figure is correct. Mr. Roehl mentioned something about identifying these referring to the rural area, and the Commissioner asked for further comment on that subject from Mr. Moore.

Mr. Moore clarified that he did not mean to imply that these areas necessarily have to lose their NR status if outside of designated RAIDS. The commercial purpose to which they could be put would be much more restricted because GMA only permits resource based industries or small scale recreational or tourist industries in those areas. This is not directed at bed and breakfasts, golf courses, recreational vehicle parks or the ma and pa grocery stores, those are allowed by GMA in the rural areas.

Mr. Vincent explained that the EDC figure in the report was changed after the report came out by the Planning Commission by 15-20%. Based on those, the preliminary designation on page 2 lines 16-31, the Planning Commission felt there was expandable areas both on Camano Island and Whidbey Island that were not addressed. The number 782 acres was used based on that report as a starting point only.

Mr. Moore provided further clarification: the EDC report did not get changed before it came out by the Planning Commission; the Planning Commission changed it after it came out. The PC decided to go back to the original basis of the EDC report.

Commissioner Shaughnessy noted that both Mr. Roehl and Mr. Applegate mentioned properties subject to contract rezones and he agreed that was an important issue and that those properties be identified. He asked Mr. Moore what the difference would be between contract rezones and the uses that are actually being allowed on some of these properties.

Mr. Moore said it was important to identify the existing zoning of all properties. Contract rezones are referred to as a development agreement under the RCW between the county and land owner. A contract rezone generally is more specific in terms of what the county would permit.

Commissioner Shaughnessy felt that the term "non conforming" needed to be addressed. Chairman Shelton agreed, noting that every issue paper seemed to continue to use that term, and the Board would like that term changed. Commissioner McDowell concurred, and suggested the term "non residential uses approved prior to GMA".

Under exclusions and limitations, line 26, Commissioner McDowell agreed with the suggestion to replace "shall not exceed" with "are expected to be" and "similar numbers to". When looking at the map he can see from the EDC Report page 39, there are 46 acres North Whidbey counted – out of 375 acres; so he has no idea whether or not that is a good number. Until he sees the map he is uncomfortable with specifying the number 782 acres. Under additional items to be considered, he acknowledged the comment about the aquifer recharge potential – everything else there are all surface things that can be relatively easily measured. He was not sure as an individual property how one would ever map out or prove "yes or no" an area of high versus low or medium aquifer recharge areas. Areas of high aquifer recharge potential need to be defined. As far as non conforming uses, he too thought contract rezones should be included here, not necessarily a RAID, but something that may have been overlooked in consideration of RAIDS. Would like to make sure there is not some contract rezone for 20 acres that was not reviewed, suggest adding contract rezones under additional items to be used for consideration as item #10.

Chairman Shelton agreed with Commissioner McDowell and Shaughnessy's comments. One other area he was not sure was worded correctly was line 20 on page 1 – unclear what is proposed. If this speaks to drawing a RAID and putting transitional buffers inside the RAID, that would seem to go against good planning.

Mr. Moore explained transitional buffer for a RAID: varies in a number of different cases, dealing with some general criteria from the GMA which requires interpretation at the county level. The concept is that generally in major commercial areas it is more the obligation of the commercial

developers to provide the buffer zone. He did not mean that the land is included as being part of the commercial proposal, but still could be their obligation to provide appropriate buffering for the surrounding community.

The Chair explained his point was not to say that somehow boundaries should not be drawn around that existing area, rather that it is not necessarily correct if someone owns a piece of property that abuts a RAID, that because that happens to be a characteristic of your property that you should accept 10 or 20 acre zoning because your property borders that. At the very least in relation to item #3 there needs to be some clarification. Including terms such as "transitional buffers" almost requires there be a glossary of terms.

Mr. Moore noted the need to distinguish between the land area that is required for commercial purposes and the boundaries of the RAIDS, two different things. This is an issue that goes back to the need for a vision statement and an overall concept of County development people can subscribe to. Generally there has been some public support for the idea of this disbursed commercial development in Island County which really is not being allowed in any other areas, but because of the County's historical development pattern, what he hears is there is a willingness to support that concept given the appropriate controls around RAIDS. In his mind the buffer zone would be inside of the RAID, but not included in terms of the calculation Of the commercial land. Generally the burden is put on the commercial developers to provide the buffering. He saw a need for some illustrations in the document to show those principles applied.

In terms of are these the right projections, Mr. Moore stated that this is the best that Island County has been able to come up with in terms of an analysis of industrial/commercial needs in the County. The methodology EDC used has been criticized by the Camano Community Council and the Coalition because of its utilization of a comparison technique of analyzing some surrounding counties that also have military installations that dominated the economy.

### **Board Decision**

Commissioner Shaughnessy moved that the Board adopt the recommendation of the Island County Planning Commission on Non-residential/mixed use areas of More Intensive Development [document dated 12/-5/97] with the following changes:

#### Exclusions and Limitations under Item #2:

"County-wide, the sum of land acreage designated as a Non-residential RAID and the portion of non-residential land within a Mixed-use RAID shall not exceed the EDC estimated non-residential need of 782 acres allocated for unincorporated Island County", delete "shall" and insert "is expected"

#### Additional Items to be Used for Consideration

Add #10: Properties subject to contract rezones.

#### Non-Conforming Lots

General consensus of the Board is that the term "non-conforming lots" not be used in the final draft. An example provided instead of non-conforming was: non residential uses approved prior to GMA"

#### Preliminary

The word "preliminary" used on page 1 at line 11 and on page 2 at line 13 be italicized and highlighted.

#### Definitions

Transitional Buffers [page 1, line 20] need to be defined

Areas of high aquifer recharge potential need to be defined

Steep slopes be defined as steep and unstable slopes, not defined as a percentage

Motion, seconded by Commissioner McDowell, carried unanimously.

### **RESOLUTION #C-83-97 – EXTENSION REQUEST –**

#### **KENT MYERS – SITE PLAN REVIEW**

By way of letter dated December 3, 1997, request was received from Kent Myers to grant an extension for site plan review #062/93, Camano Plaza, inasmuch as the current application expires December 12, 1997. The extension would be for one year of the approval of the preliminary site plan for the expansion plans for the Camano Plaza grocery store and business complex located in the Non-Residential Zone. Staff recommended approval of the extension.

The Board by unanimous motion, approved Resolution #C-83-97 extending approval of Preliminary Site Plan 062/93 plans for the Camano Plaza grocery store and business complex located in the Non-Residential Zone, as presented, with the last sentences to indicate that all improvements required for Final Approval shall be complete, and the final map corrected and ready to record no later than December 12, 1998 and that drainage facilities and parking improvements will be completed prior to final approval.

**BEFORE THE BOARD OF COUNTY COMMISSIONERS  
OF ISLAND COUNTY, WASHINGTON**

IN THE MATTER OF EXTENDING THE EXPIRATION DATE OF THE PRELIMINARY SITE PLAN REVIEW APPLICATION No. 062/93, FOR THE CAMANO PLAZA GROCERY STORE AND BUSINESS COMPLEX	) ) RESOLUTION C-83 -97 ) PLG -024-97 )
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**WHEREAS**, the Preliminary Site Plan Approval of SPR #062/93 expires on December 12, 1997, and the applicant, Kent Myers, has not completed all requirements needed to for Final Approval to be granted,

**WHEREAS**, A request for a one year extension of the Preliminary Site Plan Approval of SPR # 062/93 was received on December 8, 1997;

**WHEREAS**, the applicant, Kent Myers, has made steady progress towards completion of all required improvements, and has submitted an application requesting Final Approval;

**WHEREAS**, the Island County Planning Department recommends that the preliminary approval be extended for one year;

**WHEREAS**, The subject site is located at 370 East Camano Drive, on the east side of the street in the northwest quarter of Section 31, Township 332 North, Range 3 East, W. M. Camano Island, Washington (Assessor's Parcel Numbers R33231-455-2000, R33231-485-2150, R33231-016-1600).

**IT IS HEREBY RESOLVED** by the Board of Island County Commissioners that the one year extension of the preliminary Site Plan Approval for application number SPR #062/93 is hereby approved. All improvements required for Final Approval shall be complete, and the final map corrected and ready to record no later than December 12, 1998. Drainage facilities and parking improvements will be completed prior to Final Approval.

**APPROVED AND ADOPTED** this 8<sup>th</sup> day of December, 1997.

	BOARD OF COUNTY COMMISSIONERS OF ISLAND COUNTY, WASHINGTON
	MIKE SHELTON, CHAIRMAN
	Wm. L. McDOWELL, COMMISSIONER
	TOM SHAUGHNESSY, COMMISSIONER

ATTEST: Margaret Rosenkranz

Ex-Officio Clerk of the Board

**PLAT ALTERATION #PLA 431/96 BY JOHN AND JANICE ERICSON**

The Board received a request for approval of Plat Alteration PLA 431/96, by John and Janice Ericson, Applicants, Parcel #7770-00-01017, 01018, 01019 and 01020, located at the SW corner of Cultus Bay Road and Lookout Lane, South Whidbey. The purpose as explained in Stacy Tucker's memorandum of December 2, 1997, is to eliminate interior lot lines in four lots located within the Plat of Possession Shores, Division #1, for the purpose of creating one lot which meets the current minimum lot size standards and is more buildable. The project was granted conditional preliminary approval by the Hearing Examiner on January 27, 1997, and the application for final PLA has been reviewed and all conditions met. County staff recommends the Board grant final PLA approval.

By unanimous motion, the Board approved Plat Alteration #PLA 431/96 as presented.

**EXECUTIVE SESSION**

Chairman Shelton announced at 1:20 p.m. that the Board would meet in Executive Session, as allowed under provisions of RCW 42.30.110(1)(i) to discuss with Legal Counsel, pending or potential litigation. The Executive Session lasted approximately 20 minutes and no announcement was made on conclusion.

**HEARING HELD: Ordinance #C-78-97 in the matter of an Ordinance concerning Interim Application Procedures affecting**

**Chapter 17.02 Island County Code**

A Public Hearing was held at approximately 1:40 p.m., as scheduled by motion of the Board on November 21, 1997, and as advertised, for the purpose of considering Ordinance #C-78-97 in the matter of an ordinance concerning interim application procedures affecting Chapter 17.02 of the Island County Code. In addition to the three County Commissioners, Planning Director, Legal Counsel and County staff, the audience consisted of approximately 25 people, including representatives from the Press. An attendance sheet was circulated and a copy on file as part of this record.

Chairman Mike Shelton read for the record Hearing Record Instructions as read at previous GMA/Comp Plan hearings. For the record, the Chairman entered the following documents and correspondence received up to the time of this hearing:

**Submitted By Subjects Covered**

1. Larry Kwarsick 12/4/97 request to be advised on impact of proposed ordinance

Public Works Director

2. Citizens Growth Mgt. Coalition Interim Ordinance

12/5/98

3. WEAN 12/4/97 Interim Ordinance

4. Comments from Steve Erickson Preliminary Analysis of the Proposed Interim [from Internet Ordinance

5. Tom Roehl 12/2/97 Commentary on Proposed Interim Ordinance

6. Tom Roehl 12/4/97 Additional Commentary on Interim Ordinance

7. Kim Drury 12/8/97 Comments on Ordinance

Save the Woods on Saratoga

8. The Smith Family 12/8/97 Comments on Ordinance

9. Mary Campbell, Camano Island Request no Action until Camano Island

12/8/97 residents can be adequately represented

on Camano Island & evening meetings held

10. James D. Henderson Comments on Ordinance

Henderson Farm 12/8/97

11. Proposed Interim Ordinance dated 11/24/97

12. Planning Commission Minutes 12/2/97

13. Planning Commission record of documents on Interim Ordinance

Keith Dearborn, legal counsel, Bogle & Gates, handed out copies of proposed Ordinance #C-78-97, the document dated 11/24/97 initially and reprinted 12/03/97 1:08 p.m. with no changes, a two-page ordinance with two attachments, Exhibit A, the GMA/Comp Plan Compliance Schedule, and Exhibit B vesting rules and interim procedures governing applications under 17.02 ICC. He explained what the Growth Management Board did and where the County's ordinance proposed to go beyond, and reasons why staff recommended going beyond, noting that the Board's action did not have to go beyond the GM Board, but staff and counsel felt that some of the matters the County would have otherwise been allowing to

continue would have, if identified to the GM Hearings Board, been treated the same as those matters they did find invalid. There are two compliance orders: April 10, 1996 and October 6, 1997. The following two handouts were provided by Mr. Dearborn to review what the Growth Hearings Board found invalid, combining the effect of those two orders in this summary:

(1) Growth Board Compliance Orders Chapter 17.02 ICC

**Residential**

3.5 du/ac is clearly an urban density

**NR Floating Zone**

allows urban commercial and industrial uses outside IUGA's

overly broad range of uses allowed

every floating zone request has been approved

GMA allows appropriate non-residential uses outside IUGA's

dependent on a rural location

compatible, both functionally and visually, with rural area

**Rural Residential**

as currently written, density bonuses allow sprawl and/or impermissible urban development

**Agriculture and Forest Management**

as currently written, clustering and TDR transfers threaten the protection of resource lands

as currently written, "opt-out" rezone criteria also threatens protection of resource lands

**Non-Residential and Land Use Standards**

industrial, commercial, and mixed-use development standards allow siting of urban uses outside IUGA's [focus on existing non-residential zoned property]

Mr. Dearborn mentioned too that the GM Board has said that essential public facilities can be sited outside of IUGA's and resource/industrial uses can be sited outside IUGA's.

(2) Interim Application Procedures, Proposed Ordinance C-78-97 - comparison of zoning classifications in 17.02 with compliance orders and interim application recommended

**INTERIM APPLICATION PROCEDURES**

**PROPOSED ORDINANCE C-78-97**

	Compliance Orders	Interim Application Procedures
<b>Rural Residential</b>		
Density bonuses	✓	✓
Accessory uses when no permitted use		✓
Home industry		✓

Guest houses		✓
<b>Residential</b>		
3.5 du/acre	✓	✓
Accessory uses when no permitted use		✓
Mobil home parks		✓
<b>Agriculture</b>		
<b>Forest Management</b>		
"Opt-out"	✓	✓
TDR's	✓	✓
Home industry		✓
Guest house		✓
<b>NR Floating Zone</b>		
<b>NR Zone</b>		
Urban uses	✓	✓
<b>Land Use Standards</b>		
Industrial	✓	✓
Commercial	✓	✓
Mixed use	✓	✓
Institutional		✓
<b>TDR's</b>		
Outside IUGA's	✓	✓
<b>Amendments</b>		

"Opt-out"	✓	✓
RR to R		✓
AG/FM to R		✓
R to NR		✓

The concern Mr. Dearborn has is that the GM Hearings Board has the obligation to lift the order of invalidity when they determine that the County after adoption of interim regulations no longer substantially interferes with the goals of GMA. The GM Hearings Board did not perform a comprehensive review of the County's regulation, rather looked at the portions of the code identified by the Petitioners as areas of concern and ruled on those portions. In returning to the GMHB and asking that the order of invalidity be removed, his concern would be if Petitioners then raise the remaining issues shown in column #2 and ask for continuation of the order because the ordinance continues to interfere with goals of the GMA, siting home industries, guest houses, second residences and other ways the County goes beyond the code. He did acknowledge that on record is correspondence from all of the Petitioners, WEAN and Coalition, urging to not include in the prohibition on applications for the future, uses such as guest houses, home industries and accessory uses. That position is shared by other people who have written to the Commissioners, such as Tom Roehl.

Debra Little, Island County Planning Department, Development Services Manager, submitted the following two handouts [summary - copies on record]:

**(1) Tables listing applications received or accepted in the Planning Department between April 10, 1996, and November 30, 1997** Page 1 - types of applications received in the different zones

For the last 1-1/2 years looking at a large number of short plats in the Rural Residential zone and Institutional Uses, particularly in the Residential zone [most of those institutional uses are water tanks, drainfields or cell towers].

Page 2 - listing of the same applications [receiving approval]

Page 3 - those still pending

Page 4 - applications projected to be accepted for the next six months with no interim regulations [based on submittals during similar time frame, Nov 1, 1996 to May 1, 1997]

## **(2) Descriptions of Various Applications Received**

What has been found is that although guest houses are supposed to be temporary occupancy, that in many cases they are being used as a permanent residence and really are not counted as part of the density in the County, but very definitely a permanent residence very often for a family member. The accessory use or guest house fairly often is as large or larger than the permitted use. There are home industries which involve construction businesses. There is a case where someone requested a second residence but there already is a second residence and converted a barn into a third residence. There is at least one home industry for a kennel, with up to 40 dogs, 4 parking spaces, 2 employees, office and grooming area. Better and clearer standards are needed in order to set up the approval and prevent abuses to the neighborhoods and neighbors. County Code does allow people to have a parcel and build an accessory structure, such as a garage.

Keith Dearborn indicated for the record that a determination had been made that the Interim Ordinance is categorically exempt under WAC 197-11-800(20). [See Memorandum for the File dated 11/26/97 from Vincent J. Moore, SEPA Responsible Official]

## **PUBLIC COMMENTS**

**Tom Roehl**, Greenbank, representing himself as a resident in rural Island County, referred to his letter of record dated December 2, 1997, commentary on the proposed Interim application Procedures Ordinance. He explained that prohibition of accessory uses and structures prior to the development of a permitted use in all zones and prohibiting guest houses in all zones served no constructive public purpose. He made the point there are owner-builders and others who need to do things in rural residential areas, such as small platted lots around Clinton and the Maxwellton area - a person with a small platted lot who needs an accessory structure on a different lot they own in the same area, next door or across the street. Another example would be someone in AG or Rural who needs a barn on a different parcel than where the home may be located. There are many cases where owner-builders needs to build the garage first, and come and construct their home on weekends. With regard to Debra Little's explanation of some of the problems encountered, he believed the issue was being confused with enforcement, and the question really "what is the County going to license in the approval of accessory uses, structures and guest houses?" As to his second letter, also a matter of record for this hearing dated December 4, 1997, additional commentary on the proposed Interim Application Procedures Ordinance, Mr. Roehl addressed the "second residences" issue. While the proposed ordinance would prohibit second residences on the same parcel in the Residential Zone, he believes it could in fact be allowed subject to the density requirement in Rural Residential of 1 house per 5 acres. He suggested inserting "additional

residences" after the word "short subdivisions" in that section, and allow additional residences under the same rule, i.e. why discriminate against the person who wants two houses on a 10 acre tract merely because they do not want to subdivide the land.

Mr. Roehl then addressed the issue of several of his clients who recently were given a handout purporting to be the law or policy, stating the difference between a guest house and a second residence is that a guest house is not a full dwelling unit [ i.e. missing one of three elements of defined dwelling unit - eating, sleeping , sanitation] If that distinction has not been drawn and guest house applications are being processed and licensed as a guest house and are in fact full residences then those should have been processed only if they complied with the density requirements. He maintained that the proposed ordinance contains standards, and suggested the ordinance be changed to refer only those items that were a part of the GMA Compliance Orders issued to date. He thought perhaps this might be a good time to recognize the County has obligations regarding processing applications on properties subject to contract rezones during this interim period.

**Steve Erickson**, WEAN, discussed home industries, guest houses and accessory structures on parcels that have dwellings on them, noting that WEAN very specifically did not challenge that to the GMHB because, although they believe there are some problems and abuses, it was their judgment that problems are not such to meet the substantial interference standard in GMA. His suggestion was instead of repealing them, adopt workable standards.

He observes the ordinance as allowing the renewed vesting of PRDs with density increases because of the way it is written. It has to say those uses are not allowed and will not be accepted, otherwise it creates a situation where the PRD could not go forward at that time but the application would be accepted as complete and then be vested. WEAN believes the rezone of Residential to Rural Residential in terms of density is contrary to the GMHB's ruling in several ways. There is no valid land capacity analysis and no supporting data. Another problem is that many of those residential parcels are not 1/2 or 1/3 acre lots but are very large parcels that are in active farm use and commercial forestry, and arguably are resource lands. He was puzzled why the County would go beyond the Hearings Board order on some things that were not challenged, but on other things the County is attempting to basically get around the Boards rulings, i.e. attempting to use GMA's policy guidelines on isolated and small scale developments in the rural area as a development regulation. He did not believe the Ordinance was exempt from SEPA, rather that it contained substantive standards. Automatic vesting of proposals presents a situation ripe for potential disaster .

One thing very much a problem with the County's ordinance is in the critical areas ordinance WEAN brought in front of the GMHB, and the GMHB said there was a problem but was a procedural question and wanted a more complete record. In an attempt to avoid having to litigate this issue WEAN approached the County previously, but he saw now there was no choice but to file a new petition for review with the Western Washington GMHB over the County's failure to obey GMA requirements designated to protect critical areas , particularly wetlands. For the record, Mr. Erickson provided a copy of that new petition. Another item WEAN brought up in correspondence with the County is the County's alleged continual refusal to apply the Wetlands Ordinance to actions by the County. The policy of the County is not codified but policy is that work done by the County is not subject to the County's Wetland Ordinance, and he believed there had been wholesale wetland destruction on Saratoga Road totally unmitigated, and also of a stream and cutting off of the flow of water to a wetland associated with the Marshall Road Drainage Project.

**Georgie Smith**, Coupeville, referenced The Smith Family letter, and read same for the record:

In light of today's public hearing, we feel [it] is important that the Island County Board of Commissioners know that if ordinance C-78-97 is passed as written it will put a stop to a project we believe could be an example of an innovative and sensitive new approach to development in Island County's rural historic lands.

The proposed ordinance states that in the Agricultural Zone all new conditional uses will continue to be accepted except for `those requesting approval pursuant to ICC 17.02.080B.1.b & d.'. If this ordinance is passed, conditional uses and adaptive re-use of present historic structures will not be allowed, at least until new zoning is put in place as part of Island County's new comprehensive plan.

Currently, the Smith Family is in the process of developing a project that would allow for additional family use of our land and also adaptively re-use a historic outbuilding that is no longer used for farm purposes. The old grainery building on the Smith family's 20 acre parcel on Ebey's Prairie was once used to store grain and was, in its heyday, a fine example of farm structure. It was built with double walls and was lined with a sheet of tin, both in attempt to prevent mice and rats from entering the building. It was carefully maintained for many years but unfortunately, as times have changed, the grainery no longer provides any real use for the Smith Family and the building has deteriorated and is [in] danger of collapse within a few years.

The Smith Family is in the process of restoring for adaptive re-use the grainery building as currently allowed under the Agricultural zone conditional uses. We hope to be able to retain the integrity of the building itself while adapting into use as a second home for the Smith Family. We are currently working with a local architect and have scheduled meetings with the Ebey's Landing Historical Trust Board to ensure any changes we make to re-use the building are done with the historical significance and scenic quality of the building as determining factors.

This project makes sense to us as a way for our family to save threatened historic building as well as provide a new use of our family land, owned for four generations by Smith relatives.

We understand the county's concern over misuse of the conditional use allowances but we would like to suggest that instead of passing this

ordinance as written, that the commissioners allow the planning department discretion to allow use of existing structures, instead of a blanket prohibition on conditional uses, while the planning commission debates how to allow for such future uses a part of the current comprehensive plan process."

Ms. Smith agreed the County needed to look at guidelines and penalize those who abuse the system, but noted on review of the list Ms. Little handed out about how people are using guest houses, etc., she believed many of those were uses beneficial to the County and did not believe Island County should be turned into a place where people just live and have to commute to work someplace else and not allow homes for parents, or businesses out of homes. People should not be penalized for using the land in ways that should be encouraged i.e. guest house for family members. She encouraged the Commissioners that as part of the Comp Plan they look at allow and encourage reuse of historic buildings. One of the reasons the family looked into provisions of a guest house was because that process did not allow for separate ownership, which fit in well with what they want to do on her parents 20 acre parcel that has a Federal historic easement in place preventing subdivision of the land, with special provision by the Federal Government that stipulated in that easement in the late Seventies allowing for a second residence. She provided a copy of that Federal easement/deed for the record.

**Bill Smith**, Coupeville, owner of the Smith property, stated that the building his daughter and husband want to fix up and move into is the old historic grainery which has been there about 100 years, starting to deteriorate, and want to convert it into a residence for Georgie and her husband. He confirmed the government's conveyance of the right to build a second residence on that 20 acres. The concern of the family is that this ordinance may stop the process, as they would like their plans to happen within the next year.

**Charles Arndt**, Coupeville, Georgie Smith's husband, thought this was a good opportunity for the County to look at other uses, either conditional or accessory uses, and asked the Commissioners to take into consideration: those things that happen in traditional agricultural rural areas, i.e. families and extended families living together on a block of land making a living; and when old structures can no longer be used, there be a way to allow for reuse of those, i.e. save older existing structures and convert into a residence.

**Terry LeDesky**, Oak Harbor, architect for the Smith Family, submitted for the record four photographs of the Smith Family barn (the grainery). In a volunteer capacity, Mr. LeDesky serves in the position of "architect" on the Island County Historic Advisory Committee, and in talking about rural character in the Central Whidbey Historic District, he thought it was an important factor to take into account that whatever adaptive reuse it can be made should be encouraged for these rural structures, a key to keep the richness everyone loves on the Island.

**John Graham**, South Whidbey, speaking on behalf of Citizens Growth Management Coalition, believed that what the County wants, a quick and easy approval from the GMHB, would not happen with the current proposed ordinance, which goes beyond the GMHB ruling. By solving one problem, it creates another and undermines due process and the County's credibility. He agreed with Mr. Roehl that what is proposed takes what are conditional or permitted and makes them prohibited. His suggestion was to not discuss specifics today on guest houses, home industries, mobile and manufactured homes, because they are sensitive multifaceted issues and need much fuller debate. He made the point that Steve Erickson made his position very clear today and the Coalition has on record, confirming request to delete provisions of 1A, 1B, 2A, 2B, 3B and 4B. New vesting rules in part B of the ordinance go beyond GMHB ruling. The issue of automatic vesting if a decision is not reached 30 or 60 days has been a matter of contention between environmentalists and developers for many years; this is unfair and seriously undermines the County's credibility and the Coalition will not support it. Other items are detailed in the letter on record from the Coalition, which Mr. Graham briefly reviewed. As suggested in their letter, the Coalition's position is to not pass the ordinance today, take it back to the drawing board and look at the down side of going beyond the GMHB ruling, and reviewing some of the other areas to tighten up the ordinance as suggested in their letter.

**Rufus Rose**, Clinton, and member of the Island County Planning Commission, noticed in the "Whereas" section of the Findings of Fact, there was no reference to this action being in the interest of public health, safety and general welfare, and he thought that any land use action should have some basis and satisfy the law, and meet the standard of common sense. In the case of mother-in-law apartments, etc., he asked the Commissioners to think in terms of preserving the dignity and privacy of grandparents, parents, children. It would be nice and appropriate to consider that dignity and privacy outside of a main home may be a useful thing for relatives. In the presentation earlier he recalled that Mr. Dearborn mentioned that the WWGMHB did not make a close study of the facts, just those assertions by Petitioners. Island County claims to be a rural county, while it appears that the county is being required to comply with the most sophisticated metropolitan standards and concepts, and he thought that was wrong. He had some curiosity whether what is adopted today would follow through in the Comprehensive Plan and implementing ordinances to follow: is this setting a stage for something that must continue?

**Sandra Sherwin**, Realtor, Coupeville, representing **Art and Carol Southwick** [subject of application of 297-97] entered into the record two plat maps of their parcel of land, 3.26 acres of Residentially zoned property, with a pole building, workshop and small cabin of approximately 700 sq. Ft. [South Whidbey, in the area of Useless Bay Golf and Country Club] The application is to build their primary residence, a log home. The Southwicks made the offer to purchase the property subject to a feasibility study, and the property has a water connection available and a septic system is in place. The zoning density is more than met, yet they cannot seem to get the home built and is creating a hardship on them. Mrs. Sherwin then read a December 7, 1997 letter from Mr. Southwick as follows:

"Early in August of 1996, after a rather long and extensive search for a property suitable to our likes and desires to relocate to Whidbey Island from the Wenatchee area, we were shown the property at 2532 Mills Dr., Langley Wa. It was very much to our liking, with adequate room (3.26 acres) to build a modest little log home for our retirement enjoyment and had existing one bedroom cabin (700 sq.ft) garage and other building to accommodate my tools for my hobby of woodworking and furniture building.

We made an offer on the property subject to a feasibility study to determine if it would be possible to obtain the necessary permits to build a second home on the subject property. We spent nearly a month visiting the Island county Planning Dept., Health Dept., Building Dept., etc. We obtained As-Builts for the septic system, service, zoning and plat maps, prepared site plans for our proposed project and presented them to the powers that be at the Planning Department and Health Dept. They looked them over and expressed that there should be no problem with what we wanted to do.

Based upon this information we closed on the property in September of 1996. We applied for and received in early Nov. 1996 a permit to enclose the open pole building to provide storage for some of our belongings and a place to set up tools to build the log home. These permits were granted very expeditiously and the building enclosure has since been completed.

We have in good faith negotiated with Quality Log Homes by Sevieri Co. Of Anacortes to furnish and construct the new home and have paid them a very substantial deposit to obtain the necessary permits to do the same. They prepared the plans and permit applications and submitted them to and they were accepted by Island county Planning and Building departments for review. We were told that would require about four weeks. That was nearly three months ago this date.

This unexplained and seemingly unnecessary delay has caused and is causing untold frustration at missing the very nice weather we have been experiencing the past couple of months.

We cannot understand why there should be any controversy to do what we have asked on our property as we are surrounded on three sides by the Useless Bay Golf Course housing development and Hwy. 525 on the fourth side. There is no way it can be construed that we would be creating any urban sprawl or helter-skelter development as it is our understanding that the zoning is already residential.

It is therefor our belief and contention that if Island County has in the past been unable to complete the growth management program as required by the State of Washington in the time frames set by the State, then they should not have led us to believe that there would be no problem in doing our project or in even accepting the application for doing so.

#### Problems Caused by this situation

##### #1 Loss of faith and trust in Public Officials

#2 Creation of unneeded stress levels. This was one of the main reasons for a change of life style. Due to a very serious illness, Mrs. Southwick was advised by her doctor to reduce the stress levels as much as possible. This does little for this.

#3 Frustration and inconvenience from moving out of a large home into a very small cabin (700 sq. Ft.) with no foreseeable relief.

##### #4 Loss of revenue from uninvested or under invested funds held in reserve for new construction

#5 Would like to enjoy the excitement of building and living in our retirement dream home before we are carted away

##### #6 Would anyone connected to the cause of all this care to exist under these conditions.

#7 How do we come under the Growth Management Act when we are in an existing zoned residential area?

#8 What about our property values if we can not put more than a squatters cabin on 3.26 acres, when the houses all around are two to four thousand sq.ft. on not much more than half acre lots?"

**Ken Petry**, 696 Baaken Road, Greenbank, expressed concerns about he and his wife's property, believing the County currently in breach of contract - their property zoned commercial and then changed to NR without notification. Mr. Petry submitted a copy of a Rezone Agreement "Price Rezone" dated 1/20/75, along with a letter from he and Mary Petry describing the situation in further detail.

**Bill Applegate**, Oak Harbor, addressed B2 and B3, providing for automatic vesting of an application if a decision is not issued in 30 days or if a public hearing is not held within 60 days. His opinion was that GMA would be tied up in litigation for years, therefore, the interim ordinance applicable for years. If the Planning Director is directed to assign planners to other tasks, it is likely this will happen fairly frequently. He did not think this was a legal action and believed it should be discussed further with the attorney.

**Bill Thorn**, Camano Island, speaking on behalf of Camano Community Council, indicated that the Council would in no way support Non-Residential Floating Zones [NRFZ]. The two exceptions the Growth Board dealt with, isolated cottage industries, small scale businesses, small scale recreation and tourist uses, can be conditional uses, thus no need for NRFZ to deal with those. Regarding vesting rules, there should be a provision for invalidating a vesting date at a subsequent date if an application is found to be in error or misrepresented. The Council would not support the idea of automatic vesting at any level.

Mr. Dearborn addressed the issue raised by Steve Erickson regarding wetlands and his request to adopt modifications to the County's wetland ordinance because of threat of action by WEAN to invalidate the wetlands ordinance. Mr. Dearborn last week responded with a letter to Mr.

Erickson, and for the record, advised that one portion of that response was incorrect. The letter to Mr. Erickson indicated there was no County policy exempting county projects from the county wetland ordinance, which is not correct. At this time, he provided the following handouts and entered same in the record:

Memorandum from Matt Nash, Senior Planner, to Keith Dearborn regarding County Road Projects and Critical Areas

Memorandum from David L. Jamieson, Jr., Deputy Prosecuting Attorney, to Larry Kwarsick dated March 16, 1989, regarding the applicability of the wetlands regulations of the Island County Zoning Ordinance to construction and maintenance of drainage ditch by the Island County Road Department

Based upon an opinion by Mr. Jamieson first given in 1985 and formalized with the 1989 opinion, the County has operated under the assumption that road projects are exempt from the wetlands ordinance when within county road right-of-way. The memo from Mr. Nash describes what has occurred on five projects in the last four years, and in each case, there was mitigation done voluntarily by the Public Works Department to deal with the wetland impacts associated with those projects. The approach Island County uses today in the policy that continues to be implemented, will be revisited. It is clear that the wetlands ordinance itself does not exempt county projects; it is an interpretation offered by Mr. Jamieson and followed for the last 13 to 14 years.

Mr. Dearborn will need to talk with Mr. Jamieson and Mr. Kwarsick to understand how this practice has been carried out and how mitigation was determined. Many counties exempt certain activities from wetland ordinances and he will do some research to find out how other counties have dealt with public works projects. His advice would be that Island County come within the same framework other counties use in terms of wetland regulations relating to exemptions for county projects. [Copies of Mr. Erickson's 10/14/97 and 11/25/97 letters to Mr. Dearborn, are entered for the record, along with Mr. Dearborn's letter of response]

A number of issues came up during the hearing and based upon the written letters he was able to review just prior to this hearing, Mr. Dearborn drafted a revision to the ordinance that responded virtually to all of the issues raised in writing prior to the hearing. A few issues came up in the hearing itself which he indicated he would address as he went through the suggested revision. He took the three letters, WEAN, Coalition, Tom Roehl, and went back through the ordinance Exhibit B (A), and effectively did an inventory of every change that can respond to issues raised. The premise in making the changes in this ordinance that WEAN or the Coalition have asked for that puts back into the process of applications that will be accepted, is that if added back in the County will not see WEAN or the Coalition before the GMHB arguing to not lift the invalidity order because of the added items. He did think the record was clear today through their verbal testimony and their two letters specifically addressing second residences, accessory uses, home industry, guest houses, mobile home parks.

The revision handed out was Exhibit B, dated 12/08/97 at 12:08 p.m., the hand out provided to every member of the audience:

## **EXHIBIT B**

### **INTERIM APPLICATION PROCEDURES**

A. The Interim Application Procedures set forth below apply only to areas located outside interim urban growth areas.

#### 1. ICC 17.02.050 Rural Residential (RR) Zone

a. Applications for all new permitted uses will continue to be accepted.

b. Applications for all new conditional uses will continue to be accepted except for those requesting approval to increase base density above one (1) dwelling unit per five (5) gross acres.

c. Applications for all new subdivisions, short subdivisions and PRDs will continue to be accepted only when the tract/density complies with ICC 17.02.050.C.1 (base density is one (1) dwelling unit per five (5) gross acres or less).

#### 2. ICC 17.02.060 Residential (R) Zone

a. Applications for all new permitted uses, including one single family residence per lot, will continue to be accepted except for duplexes ((, triplexes, additional residences and accessory uses requesting approval pursuant to ICC 17.02.060.A.6 and A.7)) and triplexes.

b. Applications for all new conditional uses will continue to be accepted except for those requesting approval ((pursuant to ICC 17.02.060.B.3.b, c & f)) to increase base density above one (1) dwelling unit per five (5) gross acres.

c. Applications for all new accessory residences, subdivisions, short subdivisions, and PRDs will continue to be accepted only when tract/density complies with ICC 17.02.050.C.1 (base density is one (1) dwelling unit per five (5) gross acres or less).

#### 3. ICC 17.02.080 Agriculture (AG) Zone

a. Applications for all new permitted uses will continue to be accepted.

b. Applications for all new conditional uses will continue to be accepted ((except for those requesting approval pursuant to ICC 17.02.080.B.1.b & d)).

c. Applications for all new subdivisions, short subdivisions and PRDs will continue to be accepted except for requests to use TDRs pursuant to ICC 17.02.080.D.3.

#### 4. ICC 17.02.090 Forest Management (FM) Zone

a. Applications for all new permitted uses will continue to be accepted.

b. Applications for all new conditional uses will continue to be accepted ((except for those requesting approval pursuant to ICC 17.02.090.B.3.d & f)).

c. Applications for all new subdivisions, short subdivisions and PRDs will continue to be accepted except for requests to use TDRs pursuant to ICC 17.02.090.D.3.

#### 5. ICC 17.02.100 Non-Residential (NR) Floating Zone

a. All new use approval applications for Non-Residential uses will continue to be accepted in the Interim Urban Growth Areas designated by Island County pursuant to the Growth Management Act, Chapter 36.70A RCW.

b. ((Only n))New use approval applications for Non-Residential uses located in the RR Zone outside Interim Urban Growth Areas will continue to be accepted only for uses that ((comply with RCW 36.70A.050(5)(d)(ii) or (iii); or)) comply with the Western Washington Growth Management Hearing Board's Second and Third Compliance Hearing Orders dated April 10, 1996, and October 6, 1997, respectively.

c. New use approval applications will continue to not be accepted in the R, AG and FM zones.

#### 6. ICC 17.02.105 Non-Residential (NR) Zone

a. Applications will continue to be accepted to repair or remodel all ((uses existing on October 6, 1997)) legally established uses.

b. Applications will continue to be accepted for the expansion of existing structures ((on lots created prior to October 6, 1997)) for uses that comply with the Western Washington Growth Management Hearing Board's Second and Third Compliance Hearing Orders dated April 10, 1996, and October 6, 1997, respectively.

c. All new site plan review applications will continue to be accepted in the Interim Urban Growth Areas designated by Island County pursuant to the Growth Management Act, Chapter 36.70A RCW.

d. All new site plan review applications will continue to be accepted for uses that comply with ((RCW 36.70A.050(5)(d)(ii) or (iii); or comply with)) the Western Washington Growth Management Hearing Board's Second and Third Compliance Hearing Orders dated April 10, 1996, and October 6, 1997, respectively.

#### 7. ICC 17.02.150.E Institutional Uses

a. All new site plan review applications for Institutional Uses will continue to be accepted in the Interim Urban Growth Areas designated by Island County pursuant to the Growth Management Act, Chapter 36.70A RCW.

b. All new site plan review applications for Institutional Uses located outside Interim Urban Growth Areas will continue to be accepted for uses that comply with ((RCW 36.70A.070(5)(d)(ii) or (iii); or comply with)) the Western Washington Growth Management Hearing Board's Second and Third Compliance Hearing Orders dated April 10, 1996, and October 6, 1997, respectively.

#### 8. ICC 17.02.170 Transfer of Development Rights

Applications for use approval to establish a receiving property for transfer of development rights will not be accepted pursuant to ICC 17.02.170C, except for receiving property located within Interim Urban Growth Areas designated pursuant to the Growth Management Act, Chapter 36.70A RCW.

#### 9. ICC 17.02.210 Amendments

Applications for zone reclassifications will be accepted except for applications requesting reclassification pursuant to ICC 17.02.210 D.1(c), 3, 6, and 8.

Mr. Dearborn then went through and explained each item:

1A - reinstate the ability to submit an application for accessory use in the Rural Residential zone as requested by WEAN, the Coalition and Tom Roehl

1B - reinstate guest houses, home industry and a third category of accessory uses, and make clear that those applications would be accepted except for requests that increase base density beyond one dwelling per five gross acres.

1C - to reflect that same consistency concern and clarify the ordinance.

2A - the activities for which applications would not be accepted during this interim period would be restricted to duplexes and triplexes.

2B - same change as 1B, in this case home industry, guest houses and certain types of accessory uses would be reinstated. Clarifying phrase is the same at the bottom of 2B.

2C - same clarification at the bottom of that section as in 1C; would incorporate Tom Roehl's suggestion that accessory residences could be continued to be allowed in the Residential zone if the base density was one dwelling per five gross acres or less; the "or less" language is added to respond to the Coalition's concern that some properties in a Residential zone may not be appropriate for one unit to five acres. As to the question with respect to the Southwicks, if a building application has already been submitted, it would have been vested and this ordinance have no affect on it.

3 and 4 - Agriculture and Forest Management Zone. Changes are the same and reinstate the same home industry, and guest houses. The Smith Family testified, and Georgie Smith spoke to the Planning Commission on the same subject. Mr. Dearborn's understanding is that when they sold their development rights they reserved a residence on the 20 acre parcel in addition to their existing residence. If they had not sold their development rights, under Island County Code and made a request prior to or after invalidation orders, and asked to build a second residence, that would have been permitted. It is not a guest house, it is a second residence, and that is their right under the ordinance to cluster on a portion of their property. Therefore, if those are the facts, he said that they would have been permitted to remodel and repair the existing building as their second residence under County code and under the Development Rights Deed.

5B Non Residential Floating Zone - reference to RCW was corrected to .070, but recommended deletion of that exception for the reasons stated. In this way, on any NRFZ uses allowed outside an interim UGA in the interim period are those that would be compliant with the GMHB order.

6A - Non-Residential Zone, proposing to delete the October 6, 1997 date as not necessary, and make clear it is only legally established uses that can be remodeled or repaired.

6B - change to respond to the issue by WEAN and the Coalition about expansions of existing structures in the Non-Residential zones had no standards. This would restrict those expansions to uses that meet the two part test of the WWGMA Board.

6D - correct RCW cited. This would delete the same section as under 5B

7B - same effect, suggest deletion of same section as in two earlier sections

**Section B - Vesting Rules.** B1 is state law. B2 and B3, there is no State law, rather this is an interpretation by the county prosecuting attorney first rendered in 1985, his interpretation of a case "*Norco*" vs. *King County* case, - at the end of 90 days under the subdivision act you were vested because there was a statutory provision that says you had to act within 90 days.

B4 - codifies the *Noble Manner v. Pierce County* court decision and codifies the recent *Nichols Brothers Court Decision*

Mr. Dearborn agreed that including Section B was not necessary and had been included to provide clarity to applicants and staff in understanding what the rules are.

The question about contract rezones raised by Mr. Roehl has not been dealt with in terms of interim application procedures. Mr. Dearborn believed the County was obligated under contract to respond to anything the County entered into a contract on. Anyone who comes forward with a proposal that would not otherwise be accepted but can show by contract the County is obligated to accept, the County would have to accept.

Mr. Dearborn was not sure the issue of using historic structures needed to be addressed right now, but agreed it was a good point and should be considered by the County in its ultimate Plan and regulations. By enacting this, the County would be leaving in place a series of uses staff is concerned about that they believe may in fact go beyond the intent and potentially create uses that are in conflict with the goals of GMA. Clearly many of those uses are totally appropriate, and some are not, but those problems can be addressed during the development regulation stage. Referring back to page 4 of the series of four tables from the hand out provided earlier, those uses that would fall within the categories of concern are quite small.

Because of the revised Exhibit B, Commissioners McDowell and Shaughnessy raised the question of perhaps continuing the hearing to allow everyone an opportunity for further review of the proposal.

Mr. Dearborn explained that the goal was to get this decision made in order to have a more uniform set of rules applied. A week's delay would have no great consequence but longer delay he would be concerned about. He had advised the Commissioners to have that discussion in Executive Session because of pending threatened litigation, but the Board rejected that. It was his determination that the Board could enact this today. He suggested offering people an opportunity to confirm to the Board today whether they agree with the proposed revision. From what he understands now, Mr. Dearborn believed that the Southwick and Smith Family situations, both are not affected by this ordinance.

**Public Hearing re-opened to receive specific comments on revised Exhibit B:**

**Bill Thorn** was still opposed to the NRFZ. He pointed out that while this permits applications that are within base density, it can have the unintended affect of taking the land that is currently long term commercially significant in the AG or FM zones and create a series of small areas that are no longer long term commercially significant. This needs to be considered when development regulations are proposed - do not disrupt AG and FM areas that are of long term commercial significance.

**John Graham** referenced Section B of Exhibit B - a good idea but not needed, as Mr. Dearborn indicated; he hoped the Board would consider that. The Coalition has said they have some strong feelings that the Board not adopt it - this is not the place to do it -needs fuller debate and consideration. He asked that the Board adopt everything Mr. Dearborn proposed, and not adopt the vesting rules under Section B.

**Steve Erickson** seconded comments about the vesting rules B2 and B3; could leave the rest in but those are not needed either. One problem he still saw was under 2C. The concern with the density of 1 per 5 on Residential lands is there are larger parcels, many of which are arguably resource lands, and the goal is to prevent speculative subdivision. He suggested the fix for 2C: " applications for all new accessory residents will continue to be accepted....." and provide new 2D: "applications for all new short subdivision and PRDs will continue to be accepted only when [insert track density and a provision and parcel is less than 20 acres in size]". One of the conditional uses allowed in FM under 4B would be recreation vehicle parks and campgrounds at 3 per acre, and he was not really all that concerned on that. His main concern was the vesting

provision and 2C as written.

**Marianne Edain**, WEAN, was interested to know how the interim ordinance would be integrated into the zoning ordinance and the specific nuts and bolts of how the Planning Department would implement it.

Mr. Dearborn reminded this is not changing the zoning code; this is effectively a "moratorium" but specifies in the positive the applications the county will receive for this interim period. This will effectively be at the permit counter, and staff will be able to ask people which zone they are in, what their proposal is, and can go through it and decide whether or not the County can accept the application.

Regarding Bill Thorn's concern about continued use of the NRFZ, Mr. Dearborn did not expect to see any applications in the next 6 months. The Board could delete all of 5B and/or change it to say: "No new use approval applications for Non-Residential uses located in the RR zone outside IUBAs will continue to be accepted."

The reference to the GMH Board orders he included because the GMHB has not precluded Non-Residential uses outside of IUGA's; 6094 offers some specific exceptions and further broadens the uses that can be done in the rural area. In all likelihood the only way to allow this would be on a case by case basis, some the County may want to consider, some may be of a type and scale the County wants to go through a public process for. Section 5B could be easily modified to respond to Mr. Graham and Mr. Thorn's comments by making it clear the County would not accept new use approval applications.

Concerning Steve Erickson's suggestion, Mr. Dearborn did not have an assessment on what the impact would be as suggested for subdivisions, short subdivisions and PRDS in the Residential zone that would only be accepted if on parcels 20 acres or less in size. Mr. Erickson's point has been that some lands currently zoned Residential should be zoned FM or AG, that some of those lands may in fact be comprised of lands of long term commercial significance. That is an issue that will be considered, and cannot be considered now. Mr. Erickson will have an opportunity to make those arguments on a parcel by parcel basis during the resource designation process. Perhaps it is reasonable in the interim period to limit the PRDs, subdivisions and short subdivisions in the Residential zone to those that are 20 acres or smaller in size.

Mr. Dearborn's response to Changes Suggested - Exhibit B Section B:

B1 and B4 are State law today; stating them here or not does not matter. B2 and B3 - agree there has been problems of interpretation over vesting and differences of view, particularly in B2 and B3 category , but for purposes of interim application procedures, the B Section of the Ordinance

is not necessary for staff to be able to continue to operate; it was offered in order to provide clarification.

2C: suggested language: after accessory residences, insert the words "and for new", and after PRDs put phrase "on parcels less than 20 acres in size".

5B: suggested language so 5B reads: "No new use approval applications for Non-Residential uses located in the RR zone outside Interim Urban Growth Areas will continue to be accepted."

Commissioner McDowell had some problem with those two changes; on NR clearly the GMHB has allowed on a very small amount of NR type permits and those that are resource based; see no point now in raising this issue and saying this cannot be done. As to the issue on 2C, clearly this is talking about parcels less than 5 acres in size in the Residential zone; the issue of whether a 21 acre parcel would be allowed or to be short platted he thought needs to be looked at in the public process at the appropriate time for the County's long term Comp Plan.

Mr. Dearborn was of the opinion that he could defend the ordinance without those changes. In 1992 the then Board adopted interim resource land designation and that was GMA regulation. If Mr. Erickson feels there was Residential property that should have been included in that designation, Mr. Dearborn's argument will be the same as it was on the wetlands ordinance; WEAN participated in the process, spoke at hearings and had an opportunity to appeal those ordinances. In this case his argument is not an argument he is concerned about.

Chairman Shelton could think of several instances that would apply to what Mr. Erickson was talking about, and certainly those property owners have not made a rush to rezone their property, and he suspicioned they would not.

**Board Decision**

Commissioner Shaughnessy moved that the Board approve Ordinance #C-78-97 in the matter of an ordinance concerning interim application procedures affecting Chapter 17.02, Island County Code [with attached Exhibits A and B]. Motion was seconded by Commissioner McDowell. Under discussion the Board made the following amendments to Exhibit B of the ordinance to use new Exhibit B dated 12/08/97 at 12:08 p.m.; changing in the new Exhibit B within A.2.c. the word "accessory" to "additional"; and deleting B in total. Motion, as made and amended, carried unanimously.

**BEFORE THE BOARD OF COUNTY COMMISSIONERS  
OF ISLAND COUNTY, WASHINGTON**

IN THE MATTER OF AN ORDINANCE CONCERNING INTERIM APPLICATION PROCEDURES AFFECTING CHAPTER 17.02 ISLAND COUNTY CODE	))))	ORDINANCE <u>C-78-97</u>  <u>PLG - 023-97</u>

**FINDINGS OF FACT**

**WHEREAS**, the Western Washington Growth Management Hearings Board has found Island County to not be in compliance with the Growth Management Act (GMA), Chapter 36.70A RCW; and

**WHEREAS**, the Western Washington Growth Management Hearings Board on April 10, 1996 and October 6, 1997 invalidated portions of Chapter 17.02 ICC finding that these sections substantially interfere with the goals of GMA; and

**WHEREAS**, the Western Washington Growth Management Hearings Board Orders of Invalidity affect ICC 17.02.050, 060, 080, 090, 100, 150, 170 and 210;

**WHEREAS**, the Western Board's April 10, 1996, ruling expressly provided that the invalidity determination did not affect vested lots; home construction at base density in the Rural Residential Agriculture and Forest Management zones; remodels or repairs; and any kind of construction within IUGA's.

**WHEREAS**, Section 16 of ESB6094, codified as RCW 36.70A.302, provides three statutory exceptions to orders of invalidity;

**WHEREAS**, due to the Orders of Invalidity there is uncertainty about how property owners may utilize their land;

**WHEREAS**, while the county has implemented by administrative interpretation the Western Board's Orders, uniform interim application procedures are needed to ensure that all property owners are treated fairly, consistently and uniformly;

**WHEREAS**, RCW 36.70.795 and 36.70A.390 authorize the enactment of interim application procedures;

**WHEREAS**, the Board adopted Interim Urban Growth Areas pursuant to the Growth Management Act, Chapter 36.70 RCW for Coupeville and Langley on November 11, 1993, and Oak Harbor on November 15, 1993;

**WHEREAS**, on November 10, 1997, the Board of Island County Commissioners adopted a GMA compliance schedule and work plan, attached

hereto as Exhibit A, which commits the County to enact its GMA Comprehensive Plan and Development Regulations by April 27, 1998;

**WHEREAS**, WAC 197-11-800(20) provides that adoption of legislation relating solely to governmental procedures and containing no new substantive standards shall be exempt from SEPA; and

**NOW THEREFORE LET IT BE ORDAINED**, to comply with the April 10, 1996, and October 6, 1997, Orders of Invalidation of the Western Washington Growth Management Hearings Board, the Board of Island County Commissioners hereby adopts the attached vesting rules and interim application procedures governing applications under Chapter 17.02 of the Island County Code as shown on Exhibit B which shall be applicable only to areas located outside the interim urban growth areas adopted by the County on November 11 and 15, 1993, pursuant to the GMA, Chapter 36.70A RCW.

**LET IT FURTHER BE ORDAINED**, that these interim application procedures will remain in full force and effect until Island County adopts a Comprehensive Plan and Development Regulations pursuant to the Growth Management Act, Chapter 36.70A RCW or one year from the date of enactment of this ordinance, whichever date occurs first.

Adopted this 8th day of December, 1997.

**BOARD OF COUNTY COMMISSIONERS**

**ISLAND COUNTY WASHINGTON**

Mike Shelton, Chairman

**ATTEST**: Mac McDowell, Member

MARGARET ROSENKRANZ Tom Shaughnessy, Member

CLERK OF THE BOARD

**APPROVED AS TO FORM:**

DAVID L. JAMIESON, JR.

ISLAND COUNTY DEPUTY

PROSECUTING ATTORNEY

B. The following vesting rules are hereby adopted to govern processing of applications filed and accepted as complete for review after October 6, 1997:

1. The following applications shall be vested under the county regulations in effect on the date a complete application is accepted for review:

- o Preliminary Long Subdivision (PLP)
- o Plat Alterations (PLA)
- o Preliminary Short Subdivision (SHP)
- o Short Plat Revisions (SHP)
- o Preliminary Planned Residential Development (PRD)
- o Building Permit
- o Shoreline Substantial Development Permit (SDP)
- o Request for a Determination of Exemption from Shoreline Permit (SHE)

2. The following applications subject to administrative review shall be vested upon approval OR if a decision has not been issued within 30 days following the date of acceptance of a complete application, then application shall be vested under the county regulations in effect on the last date that the county should have complete the administrative review. (see, ICC 16.19.080.A):

- o Preliminary Binding Site Plans (SPR)
- o Preliminary Site Plans for Conditional Uses in any zone (SPR)
- o Preliminary Site Plans for Second Residences in the RR, AG, FM zones (SPR)
- o Preliminary Site Plans in the Non-Residential zone (SPR)

3. The following applications subject to public review shall be vested upon approval OR if a public hearing has not been held within 60 days after the date of acceptance of a complete application exempt from SEPA or, for

nonexempt projects, the last action required to comply with SEPA, then the application shall be vested under the county regulations in effect on the last date that the county should have heard the application. (see, ICC 16.19.090):

- o Preliminary Binding Site Plans (SPR)
- o Preliminary Site Plans for Conditional Uses in any zone (SPR)
- o Preliminary Site Plans in the Non-Residential zone (SPR)
- o Use Approval for alterations to a wetland (USA)

4. The following applications shall be vested upon preliminary approval:

- o Rezones (REZ)
- o Use Approvals for the Non-Residential Floating zone

## **EXHIBIT B**

### **INTERIM APPLICATION PROCEDURES**

The Interim Application Procedures set forth below apply only to areas located outside interim urban growth areas.

#### **1. ICC 17.02.050 Rural Residential (RR) Zone**

- a. Applications for all new permitted uses will continue to be accepted.
- b. Applications for all new conditional uses will continue to be accepted except for those requesting approval to increase base density above one (1) dwelling unit per five (5) gross acres.
- c. Applications for all new subdivisions, short subdivisions and PRDs will continue to be accepted only when the tract/density complies with ICC 17.02.050.C.1 (base density is one (1) dwelling unit per five (5) gross acres or less).

#### **2. ICC 17.02.060 Residential (R) Zone**

- a. Applications for all new permitted uses, including one single family residence per lot, will continue to be accepted except for duplexes and triplexes.
- b. Applications for all new conditional uses will continue to be accepted except for those requesting approval to increase base density above one (1) unit per five (5) gross acres.
- c. Applications for all new additional residences, subdivisions, short subdivisions, and PRDs will continue to be accepted only when tract/density complies with ICC 17.02.050.C.1 (base density is one (1) dwelling unit per five (5) gross acres or less).

#### **3. ICC 17.02.080 Agriculture (AG) Zone**

- a. Applications for all new permitted uses will continue to be accepted.
- b. Applications for all new conditional uses will continue to be accepted.
- c. Applications for all new subdivisions, short subdivisions and PRDs will continue to be accepted except for requests to use TDRs pursuant to ICC 17.02.080.D.3.

#### **4. ICC 17.02.090 Forest Management (FM) Zone**

- a. Applications for all new permitted uses will continue to be accepted.
- b. Applications for all new conditional uses will continue to be accepted.
- c. Applications for all new subdivisions, short subdivisions and PRDs will continue to be accepted except for requests to use TDRs pursuant to ICC 17.02.090.D.3.

#### **5. ICC 17.02.100 Non-Residential (NR) Floating Zone**

- a. All new use approval applications for Non-Residential uses will continue to be accepted in the Interim Urban Growth Areas designated by Island County pursuant to the Growth Management Act, Chapter 36.70A RCW.
- b. New use approval applications for Non-Residential uses located in the RR Zone outside Interim Urban Growth Areas will continue to be accepted only for uses that comply with the Western Washington Growth Management Hearing Board's Second and Third Compliance Hearing Orders dated April 10, 1996, and October 6, 1997, respectively.
- c. New use approval applications will continue to not be accepted in the R, AG and FM zones.

#### **6. ICC 17.02.105 Non-Residential (NR) Zone**

- a. Applications will continue to be accepted to repair or remodel all legally established uses.

- a. Applications will continue to be accepted for the expansion of existing structures for uses that comply with the Western Washington Growth

Management Hearing Board's Second and Third Compliance Hearing Orders dated April 10, 1996, and October 6, 1997, respectively.

- c. All new site plan review applications will continue to be accepted in the Interim Urban Growth Areas designated by Island County pursuant to the Growth Management Act, Chapter 36.70A RCW.

- d. All new site plan review applications will continue to be accepted for uses that comply with the Western Washington Growth Management Hearing Board's Second and Third Compliance Hearing Orders dated April 10, 1996, and October 6, 1997, respectively.

#### **7. ICC 17.02.150.E Institutional Uses**

- a. All new site plan review applications for Institutional Uses will continue to be accepted in the Interim Urban Growth Areas designated by Island County pursuant to the Growth Management Act, Chapter 36.70A RCW.

- b. All new site plan review applications for Institutional Uses located outside Interim Urban Growth Areas will continue to be accepted for uses that comply

with the Western Washington Growth Management Hearing Board's Second and Third Compliance Hearing Orders dated April 10, 1996, and October 6, 1997, respectively.

**8. ICC 17.02.170 Transfer of Development Rights**

Applications for use approval to establish a receiving property for transfer of development rights will not be accepted pursuant to ICC 17.02.170C, except for receiving property located within Interim Urban Growth Areas designated pursuant to the Growth Management Act, Chapter 36.70A RCW.

**9. ICC 17.02.210 Amendments**

Applications for zone reclassifications will be accepted except for applications requesting reclassification pursuant to ICC 17.02.210 D.1(c), 3, 6, and 8.

The Board will meet in special session with the Planning Commission for a Workshop on December 12, 1997 at 9:30 a.m., Courthouse Annex, Hearing Room I, Coupeville, regarding Measures to Protect Rural Character.

There being no further business to come before the Board at this time, the Chairman adjourned the meeting at 4:30 p.m., to meet next In Regular Session on December 15, 1997, beginning at 9:30 a.m.

**BOARD OF COUNTY COMMISSIONERS**

**ISLAND COUNTY, WASHINGTON**

\_\_\_\_\_

Mike Shelton, Chairman

\_\_\_\_\_

Wm. L. McDowell, Member

**Attest:** \_\_\_\_\_

Tom Shaughnessy, Member

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Margaret Rosenkranz, Clerk of the Board