

ISLAND COUNTY COMMISSIONERS - MINUTES OF MEETING
SPECIAL SESSION - OCTOBER 7, 2003

The Board of Island County Commissioners met in Special Session on Tuesday, October 7, 2003, beginning at 6:00 p.m. at the Camano Country Club (Clubhouse), 1243 S. Beach Dr., Camano Island, WA. Wm. L. McDowell, Chairman, William J. Byrd, Member, and Mike Shelton, Member, were present. the purpose of the special session was to conduct a public hearing to The consider Ordinance #C-84-03/PLG-019-03 in the matter of adopting an Interim Official Control that designates Division 1 and Division 2 of the Plat of Thunder Ridge as a Critical Drainage Area.

Approximately 70+ members of the public were present. County Staff attending were: Bill Oakes, Public Works Director, Gwen Maxfield, Assistant Public Works Director, and Phil Bakke, Planning & Community Development Director. Kelly Ruhoff from the Stanwood/Camano News was also present. An attendance sheet was circulated and placed on file with the Clerk of the Board.

Mr. Bakke , explained that the Board adopted Ordinance #C-84-03/PLG-019-03 on August 25, 2003, as an emergency ordinance under RCW 36.70.A.390 to designate Thunder Ridge as a Critical Drainage Area. This action was taken in response to a number of concerns raised by homeowners and developers regarding how water in the plat was being transported and how it was impacting properties. There appears to be a lack of a water conveyance system in parts of Thunder Ridge that was not being addressed while building permits were still being approved for additional homes, without really knowing how the water would impact existing and future homeowners in Thunder Ridge. The Board is allowed to adopt an emergency ordinance to facilitate a "time out" so to speak in order to determine where the water is going, how to handle it, and the exact problems. During this period, building permits will not be issued for new homes.

Mr. Oakes addressed provisions in Island County Code, Title XI, 11.03.080 stipulating that any lands determined by the Board of Island County Commissioners to meet the following criteria shall be designated Critical Drainage Areas. Item "A" under that section states: "Areas sensitive to the effects of construction or development as evidenced by severe flooding, drainage and/or erosion/sedimentation conditions, which have resulted or will result from the cumulative impacts of development and urbanization". Based on input from residents in the plat, county engineers gathered information on the history and existing conditions of the plat. Based on soils, slopes, rainfall, and the density of the development, Public Works Department recommended that the area be designated as a Critical Drainage Area because of the potential for drainage problems and erosion/sedimentation control problems. Individual lots will fall under a drainage review and requires the lot owner to control the amount of water on site and volume of water leaving their site. A classic way to control that would be to infiltrate all the water into the ground much like a septic system; however, the soils in this plat probably would not support that type solution on a lot by lot basis. The Department is willing to work with homeowners in the plat and work on solutions for the entire plat. A funding mechanism would have to be determined since the land and roads within the plat are private, and it would require lot owners to pay their fair share for the improvements. It is the recommendation of the Public Works Department to continue the Critical Drainage Area designation for four months while coming up with a whole plat drainage solution to get the water from the plat to East Camano Drive.

Chairman McDowell clarified that vacant lots could possibly be built upon, but would have stringent and most likely expensive solutions to control the water on a house by house basis. Improvements could include rock-lined ditches or pipes in the ground. Funding solutions could include new construction fees or a yearly assessment fee to fund the construction.

Commissioner Shelton suggested the possibility that Thunder Ridge Homeowner's Association contract with the county to build a storm water utility; this would be one way to keep utility costs and attorney fees to a minimum rather than by individual homeowners. It seems unfair to put the cost of the future development of infrastructure on lots that are yet to be built upon, and he thought a fairer way to deal with the drainage issues would be participation from every lot in the development.

Donald Heitman, 1069 Cavalero Rd., owns 3+ acres on the east side of East Camano Drive and was concerned about the water collected on East Camano Drive. The Chairman explained that this hearing concerned only Thunder Ridge, and noted that the county was already addressing drainage on East Camano Drive to get the water to the Sound.

David Platter, TR Camano, Stanwood, advised that the ditch reconstruction in Division 1 of Thunder Ridge was 99% complete. Division 2 has a separate drainage system designed in 1969 and functions through a system of baffles and culverts, carrying the water to the West. The water from Division 2 does not enter ditches in Division 1. Water comes from the

Camano Sunrise development into Division 1 of Thunder Ridge. He objected to the designation of Critical Drainage Area in that he did not believe Thunder Ridge met the definition in ICC. Standards appear to be geared toward critical state codes, and references to sensitive areas really aimed more at ecological interests, pathogens, and turbidity as a result of construction. There has been no evidence of severe flooding or sedimentation. The minor flooding experienced was the result of construction largely from PUD's large excavators ripping up culverts when placing power lines. All the culverts have since been replaced, ditches reopened and reshaped and catch basins placed in Division 2. A leaking fire hydrant that caused water to run across the road was shut off and will be repaired. On Fisher King Way, a berm was placed to channel water back into the ditches. Most of the problems in Division 1 have been corrected. Mr. Platter's opinion was that the Public Works Department was imposing regulations intended for new larger major plat proposals, and that information

given regarding regulations for a mandatory level 3 downstream analysis for individual property owners was misleading. Since the plat was built in 1969 he believes they are entitled to use of their property.

Commissioner Shelton noticed in Division 2 there were significant quantities of loose material on the back slope of the ditch; when winter comes that material will be back in the ditch. While he appreciated the fact that Mr. Platter was attempting to restore the ditches, one of the catch basins was full of mud and he was concerned there was still corrections to be made. He inquired about Division 2, where the water went after it was collected in the ditches.

Mr. Platter stated he was happy to make the corrections, and had in fact already restored a mile and a half of ditches, and road reconstruction. TR Camano shouldered the entire cost of the project, yet they only own about 20 lots. He provided Commissioner Byrd with an engineered drawing that TR paid for that shows the easement under survey and the existing infrastructure. Some of the manholes are actually 20 feet into the ground. The water is conveyed from the low point of the plat on the southeast side of the plat through a series of four manholes and day lights out through the backside of Thunder Ridge on the southeast corner where it runs across grass and fields and goes into the ponds.

Chairman McDowell agreed that a 1969 plat could not be held to standards of 2003 regarding detention and water quality, but disagreed that the plat did not fit the criteria for designation as a Critical Drainage Area. The ditches still need additional work such as straw bale dams until the ditches seed, and he hoped that Mr. Platter would continue to work with the county to look at the overall plan where the water is going. There are some people in Division 1 whose septic systems have been flooded out, and noted it was possible that that had been corrected by the work done to date.

Mr. Platter preferred that the Critical Drainage Area designation be lifted, and that the county instead provide the conditions that would need to be met, noting that the designation could be reestablished later if the criteria had not been met. He felt that this action had created a lot of problems for a many individuals and made it impossible to build. Many properties were purchased recently with the full expectation of receiving a building permit. Mr. Platter indicated he could make repairs and improvements to the original plat's conveyance system should that be necessary, but did not believe the county could come up anything in four months that would alter the conveyance system. The ditches are open. He emphasized he was open to working with the county and Public Works Department and would consider suggestions, but did not agree with preventing construction of three to six homes. He believed that Division 2 should be eliminated from the Critical Drainage Area designation since there is no evidence of any problems.

Commissioner Shelton commented to note that the last thing the Board wanted to do was to deny people the ability to use the property they have purchased. In this case, when the plat is built out, there will be more runoff than there is now. It is important for Thunder Ridge and the neighbors of Thunder Ridge to have a satisfactory way to handle the runoff.

The Chairman clarified that the Board wanted to get the water runoff from Thunder Ridge safely to East Camano Drive without impacting other properties, but felt there were still some problems there. If a plan and a method to pay for the improvements can be found in less than four months, the Board would agree to meet sooner.

Kyle Geiger, 1263 Lawson Rd., property owner immediately west of Thunder Ridge Division 2, expressed concerns about a catch basin between lot 15 and 16. A drainpipe from the concrete lid goes down about 15 to 20 feet in the ground and empties a few feet from his property line. One concern was when the property was built out there could be a substantial amount of runoff going across his property; another concern was erosion and the untreated storm water running into a stream on his property and into the Bay. He was anxious for a solution and was in favor of keeping the Critical Drainage Area designation until this was resolved.

Commissioner Byrd asked Mr. Platter if he had done some recent concrete work on the risers where the lids were. Mr.

Platter stated he had repaired some of the cracked lids, but not the risers.

Dennis Sakowski, 1010 Shamrock Lane (Lot 15, Div.1) spoke on behalf of 25 homeowners who had met together regarding the drainage issues. As homeowners they felt they were at the mercy of everyone else. Homes are their biggest investment and they were counting on people to be ethical and do the right thing. When folks purchased their homes they were not told this area was a critical drainage area, and assumed the infrastructure for drainage and the road system were built according to county code, approved, and was a part of the original price of the house. The homeowners association has not yet been turned over to the homeowners yet by Mr. Platter. He did not think it fair that homeowners be stuck with the bill when it should have been covered when the development was built. His group sought the advice of an attorney to look up documents with the county and get some course of direction, and they reserved the right to file a lawsuit, if necessary. He was told the road system was contiguous to East Camano Drive which made it a part of the county road system.

Chairman McDowell clarified the roads were private and were never proposed or accepted as county roads and should have been indicated as private roads on title reports when properties were purchased. Thunder Ridge was designated a Critical Drainage Area in August after issues were brought to the attention of the Board of County Commissioners.

In answer to a question from Commissioner Shelton about experiencing any problems on his Lot 15, Mr. Sakowski said that water puddled on the side of the house, but was from the type of fill dirt used. Most of the water shoots across the street and it did flood out a couple septic systems a couple times, but that was before the ditches were corrected and a culvert installed under his driveway.

Commissioner Byrd recalled that one of the neighbors stated that Mr. Sakowski's backyard and the backyards of lots on Fisher King Way flooded out when it rained. Mr. Sakowski stated it had not flooded out.

Carolyn Hovey, 1066 Cascade Lane, (Lot 63, Div. 1) living between Thunder Road and Cascade Lane, noticed the ditches coming down Thunder Road above her just stopped. Since there were no ditches on either side of her house, she was concerned the water would come onto her house. She heard that before they moved in, there had been standing water on this lot.

Mr. Platter explained to Ms. Hovey that since she lived on the south side (high side) of the road and the road was slanted toward the north (low side), there was no need for culverts on her side of the road, because the water would flow to the other side of the road (low side). He stated they had already corrected the problem with the standing water.

Lisa Ladanyi, 1032 Lightning Way (lot 52) lived in Thunder Ridge for two years and had never seen the flooding people were talking about. She moved from Lot 16, (1018 Shamrock Lane) in April 2003 and said her four children played in the backyard and in the cul-de-sac without any problems, and felt Mr. Platter had been attentive to the concerns.

Paul Taylor, 1016 Fisher King Way (lot 24) and also owns lots 25 and 30, lived there since 1981, stated that in the past two years he had never seen so much water in Thunder Ridge. On the corner of his lot there had been a pond (15 feet by 20 feet) with swamp-type grass. Last year was the first year water went underneath his house. He thought perhaps the berm TR Camano recently installed might solve that. He supports the Critical Drainage Area and feels TR Camano should be responsible to rock-line the ditches, and that cost not be passed on to the homeowners. He was very unsatisfied with the way the infrastructure and the drainage had been handled. Another concern was with the status of the Thunder Ridge Homeowners Association since Mr. Platter was the registered agent.

Chairman McDowell noted the county has no control or legal standing with homeowners associations and that was an issue to be solved among the homeowners in the plat. He understood some homeowners association's covenants dictate the original developer remains in control until there were a certain percentage of lots are sold.

Rob Watson, 1116 Portage Road, (Lot 2, Div. 2), confirmed no drainage problems on his lot. He strongly encouraged that the county work with the developer, perhaps with a deadline stipulated within which to correct any problems. He would be very disheartened to have to pay a big expense for the drainage problems when he does not have a problem.

Chris Carl, 1061 Cascade Lane (Lot 71), stated that his complaints for the drainage on Cascade Lane had not been addressed. There is no ditch on the south side of the road, the direction the road slopes. There is a ditch that ends at lot 69 and the water flowed across lot 70 and onto his lot 71. He moved to Thunder Ridge in March 2003, and on three different occasions during heavy rain before he screwed the lids down on his septic tank, the lid was floated off his third tank. He has since diverted that water through a dry well, but the problem still exists. Another concern on Cascade Lane was that three homes (lots 66, 67, and 68) whose gutters

drain from the roof onto the street and all the water flows to the south side of the street. There is a culvert in Cascade Lane where it meets Thunder Road, but the culvert is 8 inches higher than the bottom of the ditch where it turns the corner in front of his house. The water actually flows over the ditch and runs over the street before it reaches the bottom of the culvert. The road is not sloped correctly and the ditch is not deep enough to carry the water in his opinion.

Pat Benefiel, 1031 Fisher King Way (lot 22), purchased the house at the end of August and after the first good rain noticed they needed a retaining wall to drain the water away from the foundation of the house. Water ran across the road across Lot 23 and across her lot and washed sod and grass seed away. She went to Mr. Cole's office to report the problem. She stated she received a phone message from Mr. Platter, which said if she has a drainage problem, talk to the builder, it has nothing to do with them. She talked to the Island County Health Department because of the amount of water running through their drain field. She had trouble obtaining information how to maintain her drain field (white water system). She felt that that type of drain field was not appropriate for the situation where it was contaminated by ground water. They dug a ditch along the edge of their property to collect the water running from the road to keep it off their drain field. She stated someone from the county should have seen the water sheeting across the road. She wondered why the permit for that type of septic system was approved with that type of topography. She stated the building inspector should have noticed the problem with the drainage (the straight shot from the road to her foundation) and noted they do not have flood insurance. They bought in good faith believing sanitary codes and building codes would be operational and effective. She supports the county's designation as a Critical Drainage Area, and supported whatever it took to keep their investment secure. She noted that a berm was recently placed across the street by Mr. Platter to stop the water from coming down their driveways and was concerned when the paving was completed later, that the berm would be gone.

Mr. Platter clarified that the paving on Fisher King Way was complete, and Ms. Benefiel stated the road was full of cracks and very unstable and if the road was used as a ditch way to convey water on the asphalt, she was concerned that the asphalt was already breaking up on both sides of the street.

Sean Guarrity, 1014 Fisher King Way, (lot 29) was concerned that if no building permits were being issued why was someone digging a foundation above his house, and concerned about the drainage from that lot coming onto his drain field and wanted to know what the code was for digging a ditch to collect the water.

Chairman McDowell explained that permits applied for before the Critical Drainage Area designation were allowed to continue and only those permits applied for after the designation are affected.

Paul Velotta, lot 62 (Div. 1), has owned his lot for 23 years and believes the developers should be responsible for developing the plat and the roads and as leaders of the Homeowners Association, should be responsible to develop it in a manner accepted by the county and state. He suggested Mr. Cole and Mr. Platter sign a contract with the county agreeing to complete it according to code and let people continue to build. Homeowners should not have to pay since they have already paid for their lots.

John Washo, a builder in Thunder Ridge, acknowledged a vested interest and own several lots. He emphasized they build to code and are willing to rock-line ditches to keep the project moving. Financially, a lot of money is invested and there needs to be a solution in less than four months. The three houses they built on Fisher King Way are tight-lined to an individual ditch and a "d" box that runs to Lucky Lane. Lot 22 has a drain across the driveway to keep water from going to the garage. He agreed that the homeowner should not have to pay any additional fees, especially if they already live there. The county has water issues on East Camano Drive that need to be addressed. Mr. Washo was willing to do some of the things the county had required from the developer, but had some concern that the engineers may come up with a high-priced project that no one could afford.

Commissioner Shelton stated the county is well aware of those issues and the issues on East Camano Drive and would address those. The whole issue is whether the drainage infrastructure is built before the permits are issued or issue building permits in the hope that infrastructure is there and that people are not adversely impacted. Mr. Platter and Mr. Cole were not the real developers; the development occurred in 1969 and unfortunately many of the issues were not addressed then. The ultimate issue is how to address the placement of the infrastructure and who pays for it.

The Chairman stated the only way the county could deal with the homeowner's drainage problems was to designate the Critical Drainage Area and force a solution.

Commissioner Byrd was hopeful that in four months Public Works Department would be able to come up with a plan to follow and make sure the water flow meets certain requirements.

Chairman McDowell confirmed again that if a solution could be found in less than four months, the Board would come back and consider removing the Critical Drainage Area designation. It was his opinion not to build to today's 2003 standards for a plat that done in 1969. There needs to be protection of drain fields, foundations, and get the water out to the county ditch. The Commissioners understand it is a huge impact on property owners and the action not taken lightly.

Shane Schaefer, owner of two lots in Division 2, the smallest builder having just built his first house. It sounded to him as if Division 2 had not caused much of a problem.. He was sorry for everyone that had a problem with water, and wanted to hurt as few as possible. He's concerned about his business going under - he has two houses in Thunder Ridge he hoped to start building. He does not want to see people flood out of their house. He would like permission to build in Division 2 and confirmed he would take precautions with sediment issues, water runoff, laying gravel down, laying hay down and follow the county's suggestions. He emphasized the importance for him to move forward.

Commissioner Byrd mentioned that anything that happens in Division 2 would affect the proposed development between Thunder Ridge and East Camano Drive as well as a second planned development east of East Camano Drive, and thought that all the developments must be looked at as a unit.

Tony Omlin, Lot 54, Div. 1, and building at 1092 Thunder Road, observed that it is much cleaner in Thunder Ridge than in the past; there is less garbage in the ditches and the water does move faster. People that have lived there a long time are not happy with the growth and there seems to be a lot of bitter feelings. He suggested there had even been some sabotage in the past with holes drilled in the water lines and dead animals stuffed in the pipes.

Kim Nesje, a builder, lived on Camano his entire life, and owns lots in Division 1 and 2. He is a small-time builder with a big investment in Thunder Ridge; four months is too long. When building a house on Lightening Way, he and John Washo (John and Jerry Construction) proposed to tie all the drainage into one big pipe extending to the last house he owns on Lightening Way and into the ditch to protect the houses

below on Fisher King Way. The pipes going west to Mr. Geiger's property had been there for years and all the ponds tie together and go down to the Bay. The drainage on Mr. Heitman's property does go down to the Bay and a lot of county ditches have been made bigger since the big slides about five years ago. He commented that Dave and Brenda Platter had done a lot for Thunder Ridge.

Mr. Oakes pointed out that there are five other Critical Drainage Areas on Camano Island. He confirmed that he and his Department are willing to work with people and I do their best to work quickly to get this resolved.

Mr. Platter was aware that Thunder Ridge was the only plat in Island County that had required engineered drainage plans for single family homes. In a call to the Public Works Department requesting an example of a

plan, he was told none existed. He reviewed the code which specifically addresses the requirements of a builder with regard to developing a single family home within a designated Critical Drainage Area; it deals with sedimentation control and erosion issues pertaining to a single-family development, and does not give the county leeway to impose upon the individual property owner unlimited level 3 diagnostic downstream development that is applicable to a new proposed project at the planning phase. He wanted to propose an interim solution.

Chairman McDowell advised that he would talk to the Public Works Director.

The public portion of the hearing was closed. The Chairman told the audience that the County wants to avoid litigation and hopefully would I come up with a solution very quickly that would solve everyone's problems.

Commissioner Shelton commented that the Board came to hear what the people had to say in order to make an informed decision. It is not just a matter of fulfilling the law, but hearing the people who are intimately involved in the development. He believed the moratorium needed to stay in place until a specific plan was in place so people would know in the future that the plan would go forward. He did not think it necessarily had to take the full four months and was open to lifting the moratorium as soon as they could. The issue is that these lots were created in 1969. The county will take care of the water that gets to the county ditch. If this was a brand new plat, the developer would be required to figure out a way to handle the water to the sound, not just to the ditch. The real issue is not going to be the "fix", but who pays for the "fix", and likely that was the one issue that would take the most negotiation. The issue that has repeatedly come up was that the lot owners should not have to pay. He commented that the rest of the residents in Island County do not believe they should have to pay either.

Chairman McDowell re-addressed the purpose of the public hearing. By state law the Commissioners were required to hold a public hearing whenever an emergency ordinance was passed and the other purpose was to decide how long they should leave the Critical Drainage designation in effect. He believed four months was too long because the small builders could go under in four months. He would like to have another public hearing in 30 days and get a new report from Public Works that would include the cost on some preliminary plan and a further discussion of who will pay for it. Chairman McDowell would like to investigate with the prosecuting attorney whether the county could accept permits on an interim basis with an agreement with individual builders agreeing to pay a determined fee toward drainage solutions. That would permit them the ability to continue to build.

Commissioner Byrd's concern was whether Public Works could come up with a plan in 30 days. Mr. Oakes committed to doing their best.

Commissioner Shelton stated in his comments it did not have to be four months, but it should be in the shortest time. Another concern he felt needed investigation was the drainage easement between Lot 15 and 16 in Division 2 that was a part of the original plat. He did not believe it included draining all of Division 2 out to the west to the people's private property.

Chairman McDowell felt they needed to set the priorities with a timeline because everyone was busy with other pressing projects. He was concerned about the financial impact on everyone, and especially on the builders. After discussion a hearing date was agreed upon for Wednesday, November 12, 2003.

The Board by unanimous motion, affirmed Ordinance #C-84-03 in the matter of adopting an Interim Official Control designating Division 1 and Division 2 of the Plat of Thunder Ridge as a Critical Drainage Area, and continued the public hearing until November 12, 2003 at 6:00 p.m. [location to be determined] for the purpose of an update on planning by the Public Works Department, and to reconsider whether or not to continue the critical drainage area designation. (note: location of the November 12th public hearing will be at the Camano Country Club clubhouse)

There being no further business to come before the Board at this time, the meeting adjourned at 8:10 p.m. The next regular meeting of the Board will be on October 13, 2003 beginning at 9:30 a.m.

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

Wm. L. McDowell, Chairman

William J. Byrd, Member

Mike Shelton, Member

ATTEST: _____
Elaine Marlow, Clerk of the Board