

10/3/2012

**DEPOSITION UPON ORAL EXAMINATION OF MARGARET FLEEK
CROSS-EXAMINATION BY MR. THOMAS CITY ATTORNEY; EXCERPTS AS
FOLLOWS:**

PAGES 245/246

Q. Ms. Fleek, I just have a few questions. I want to clarify. For the past few minutes we have been talking about asbestos conditions and asbestos on the site. Were you aware that there was any form of asbestos on this hillside?

A. No.

Q. You never heard that before --

A. Never.

Q. You testified previously to that effect, correct?

A. Yes.

Q. You had no knowledge whatsoever that there could have been any type of risk?

A. Nope.

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Q. Okay, thank you. And then finally, if you could pull up Exhibit No. 42. And again, refresh my recollection. What is Exhibit 42?

A. Adoption of existing environmental document.

Q. Now, I believe your testimony was that you distributed this document in accordance with the

Washington Administrative Code Rules, whatever those were?

A. Yes.

Q. And you couldn't remember exactly where you distributed it, but you did distribute it, correct?

A. Yes.

Q. So it could have been gone to libraries. It could have gone to your office and other locations that were relevant?

A. Definitely.

Q. If you were a reasonably prudent business person, would you be looking for those types of areas for that document and other types of documents that may relate to your business?

A. Absolutely. I'd be right down here at the City Hall, for starters. Yes. I would look at all -- yes. I would do the research.

Q. And if you were a homeowner, would you also look for those types of documents if you were going to purchase a property?

A. Absolutely.

~~FAX~~ COVER SHEET

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Record details

- **Physical Description:** 3 v. : ill., maps ; 30 cm. (includes spiral bound map portfolio 28 x 45 cm. & spiral bound coordinated water system plan, regional supplement)
- **Publisher:** Skagit Co. WA. : Skagit County Planning and Permit Center., 2000.

Content descriptions

General Note: "July 24, 2000"--title page.
For additional information Gov Docs "Skagit County Comprehensive Plan".

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1 **14.38.010 Policy and Purposes.**

2 (1) Policies.

- 3 (a) It is the declared policy of this County to enhance and encourage Natural
4 Resource Land management within the County. It is the further intent of this
5 County to provide to the residents of this County proper notification of the
6 County's recognition and support through this Chapter of those persons and/or
7 entities' right-to-manage Natural Resource Lands.
8 (b) State planning goals encourage the conservation of productive Natural Resource
9 Lands and discourage incompatible uses. This goal can be fulfilled by assuring
10 that the use of lands adjacent to Natural Resource Lands do not interfere with the
11 continued use, in the accustomed manner, for the production of food and
12 agricultural products, timber, and extraction of minerals.

13 (2) Purposes.

- 14 (a) Where non-Natural Resource Land uses extend into natural resource areas or exist
15 side-by-side, natural resource management operations are frequently the subjects
16 of nuisance complaints and on occasion have been forced to cease or curtail
17 operations. Such nuisance complaints discourage investments in Natural
18 Resource Land improvements to the detriment of adjacent Natural Resource Land
19 uses and the economic viability of the County's Natural Resource Land industry
20 as a whole. It is the purpose and intent of this Chapter to reduce the loss to the
21 County of its Natural Resource Lands by limiting and defining the circumstances
22 under which Natural Resource Lands management operations may be considered
23 a nuisance. This Chapter is not to be construed as in any way modifying or
24 abridging County, State or Federal laws; rather it is only to be utilized in the
25 interpretation and enforcement of the provisions of this Code and County
26 regulations.
27 (b) An additional purpose of this Chapter is to promote a good neighbor policy
28 between Natural Resource Lands and non-Natural Resource Land property
29 owners by advising purchasers and users of property adjacent to or near Natural
30 Resource Land management operations of the inherent potential problems
31 associated with such purchase or residence, including, but not limited to, the use
32 of chemicals; or from spraying, pruning, harvesting, or mineral extraction with
33 associated activities, which occasionally generates traffic, dust, smoke, noise,
34 odor and the hours of operation that may accompany Natural Resource Land
35 management operations. It is intended that through mandatory disclosures
36 purchasers and users will better understand the impact of living near Natural
37 Resource Lands and be prepared to accept attendant conditions as the natural
38 result of living in or near Natural Resource Lands and rural areas.
39 (c) An additional purpose of this Chapter is to provide notice, through a disclosure
40 statement, of the potential incompatibilities, inconveniences and discomforts that
41 may arise from Natural Resource Land management activities.
42

43 **14.38.020 Nuisance.**

- 44 (1) No land-based Natural Resource Lands management activity, operation, facility or
45 appurtenances thereof, shall be or become a nuisance as defined in SCC 14.04, regardless
46 of past or future changes in the surrounding area's land use or zoning designation, when

1 conducted or maintained for commercial purposes, and in a manner consistent with
2 current Best Management Practices, not superseding local, State or Federal regulations
3 and involving uses allowed under the Agriculture Natural Resource Land (Ag-NRL),
4 Industrial Forest Natural Resource Land (IF-NRL), Secondary Forest Natural Resource
5 Land (SF-NRL), Rural Resource Natural Resource Land (RRc-NRL), or Mineral
6 Resource Overlay (MRO-NRL) districts as set forth in SCC 14.16.400, SCC 14.16.410,
7 SCC 14.16.420, SCC 14.16.430, and SCC 14.16.440, respectively.
8

9 **14.38.030 Disclosure.**

10 (1) The statement set forth in Subsection (2) ("Disclosure") shall be used under the following
11 circumstances and in the following manners:

- 12 (a) Skagit County shall mail a copy of the Disclosure, with an explanatory
13 informational attachment to all landowners whose parcel(s) lie within an area or
14 within 500 feet of an area designated as a Natural Resource Land in Skagit County
15 beginning in the year 1999 and every 3 years thereafter; provided that no liability
16 shall attach to Skagit County for any actions or omissions under this Subsection.
17 (b) Upon transfer of real property by sale, exchange, gift, real estate contract, lease
18 with an option to purchase, any other option to purchase, ground lease coupled
19 with improvements, or any other means, the seller shall be required to record with
20 the County Auditor a statement containing the language set forth in Subsection (2)
21 in conjunction with the deed conveying the real property; provided, however, that
22 the real property is located within 1 mile of the Agriculture Natural Resource
23 Land (Ag-NRL), or 1/4 mile of Industrial Forest Natural Resource Land (IF-
24 NRL), Secondary Forest Natural Resource Land (SF-NRL), or Rural Resource
25 Natural Resource Land (RRc-NRL), or Mineral Resource Overlay (MRO-NRL)
26 districts, as set forth in SCC 14.16.400, SCC 14.16.410, SCC 14.16.420, SCC
27 14.16.430, and SCC 14.16.440, respectively.

28 (2) The following shall constitute the disclosure required by this Section:

29 *"This parcel lies within an area or within 1 mile of an area designated as agricultural land or*
30 *within 1/4 mile of rural resource, forest or mineral resource lands of long-term commercial*
31 *significance in Skagit County. A variety of Natural Resource Land commercial activities*
32 *occur or may occur in the area that may not be compatible with non-resource uses and may*
33 *be inconvenient or cause discomfort to area residents. This may arise from the use of*
34 *chemicals; or from spraying, pruning, harvesting, or mineral extraction with associated*
35 *activities, which occasionally generates traffic, dust, smoke, noise, and odor. Skagit County*
36 *has established natural resource management operations as a priority use on designated*
37 *Natural Resource Lands, and area residents should be prepared to accept such*
38 *incompatibilities, inconveniences or discomfort from normal, necessary Natural Resource*
39 *Land operations when performed in compliance with Best Management Practices and local,*
40 *State, and Federal law." In the case of mineral lands, application might be made for*
41 *mining-related activities including extraction, washing, crushing, stockpiling, blasting,*
42 *transporting and recycling of minerals. If you are adjacent to designated NR Lands, you*
43 *will have setback requirements from designated NR Lands.*
44

DRAFT ENVIRONMENTAL IMPACT STATEMENT FOR

REZONING AND DEVELOPMENT OF

BURLINGTON BILL

CITY OF BURLINGTON

DEPARTMENT OF PLANNING AND

COMMUNITY DEVELOPMENT BURLINGTON, WASHINGTON

Prepared for review by Citizens and Government Agencies in Compliance with the State Environmental Policy Act of 1971 (Chapter 43.21C Revised Code of Washington) as revised; the State Environmental Policy Act Rules, as revised (Chapter 197-11 Washington Administrative Code); and City of Burlington Municipal Code Chapter 15.12 Environmental Policy.

DATE OF ISSUE: JANUARY 13, 1999

COMMENTS DUE: FEBRUARY 11, 1999

3. Alternatives for Public Street design including street width, location of sidewalks and bike paths, and means of linking the existing roads on the hill to the proposed new development.

A lot of rock blasting is required to make a full width roadway with parking on both sides, a bike path and a sidewalk. Street width is proposed to include two lanes of travel, sidewalk on one side, a bike path on one side and no on-street parking, except at designated pullouts.

The new roads on the eastern side of the hill need to be linked to the existing roads on the west. There is an existing road network on the Hill and the improvement of roads by Burlington Hill Properties must provide for links to the existing roads to maximize the potential for through-streets and alternative means of access to the Hill. This is critical to minimize future adverse impacts on traffic.

4. Zoning Alternatives for Burlington Hill include:

- **Open Space on steep slopes and potential park sites, and walking trails.**
- **Single Family Residential for most of the area**
- **On Burlington Hill Properties site, Duplex on selected lots and Multi-family Residential in Rock Quarry**
- **Industrial - Telecommunication Tower area defined and up to 2 new towers permitted in addition to co-location on existing facilities.**

The Growth Management Act as implemented in the Skagit County Comprehensive Plan requires that urban densities of 4 units per acre be achieved in residential zones, as a minimum development standard and a citywide average in residential zones. Portions of Burlington Hill's steep slope areas will be zoned Open Space Parks and Agriculture (OSPA) and the remainder of the Hill will be zoned R-1-8.4, Single Family Residential with 8,400 square foot minimum lot size. There will be some duplex zoned lots and one multi-family zoned area in the proposed plat of the eastern side of the Hill, but because there are no development plans for the remainder of the Hill, it is recommended to be zoned R-1-8.4. If higher density zoning is desired, or commercial zoning, it may be appropriated when accompanied by a specific development proposal. At this time, there is no justification for other residential zoning classifications. While the environmental impacts of developing the Hill are significant, the option for very low density zoning is not acceptable under the Growth Management Act. If the Hill is annexed, urban densities must be achieved, unless the Hill is in public ownership as a park. This is not an option.

There are two options for the telecommunication tower area. This alternative defines the limits of the area and permits up to two new towers, likely about 150 feet tall, along with co-location on existing facilities. This has a more significant impact than the option discussed below, limiting new telecommunication facilities to co-location on existing facilities.

http://burlington.skagitcat.org/eg/opac/record/10746?query=Skagit%20County%20comprehensive%20plan;qtype=title;fg%3Asimple_format=;locg=4



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