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Skagit flood dispute halts permits

By KAREN HARVEY

MOUNT VERNON — The Skagit County Planning Department has stopped issuing building permits and approving subdivisions along the Skagit River upriver from Sedro-Woolley because of a question over the size of the floodplain.

The issue of flood boundary discrepancies came to light last week when the state Shorelines Hearings Board ordered the county to disallow the building of single-family residences in Division 6 of Wilderness Village, a 210-acre recreational-residential development on the south bank of the Skagit River three miles downstream from Concrete.

The Shorelines Hearings Board stated that the proposed residences along the river should not be allowed because they were "located within the 100-year floodway as that term is defined by the Department of Ecology and the U.S. Army Corps of Engineers."

The 100-year floodway is that area along a river which is likely to be covered by water during the biggest flood that has a probability of occurring once in 100 years.

The flood of December, 1975, was rated as an eight or ten-year flood.

It is that definition that has caused Skagit County Deputy Prosecuting Attorney William Nielson to advise the planning department to place a moratorium on the issuance of building permits and approval of subdivisions.

According to David Hough, zoning administrator with the planning department, there is no official map of the floodway on any part of the Skagit River system. The U.S. Army Corps of Engineers has drawn a preliminary map of the floodway between Sedro-Woolley and Concrete for a flood insurance rate study, he said. But the study, which will include the entire river system, will not be complete until September of 1979.

He said that the county had been issuing building permits for areas outside what it had determined as the 15-year floodplain. But the discrepancy lies in what the county has determined as the 15-year floodplain and what the Corps of Engineers has determined to be the 100-year floodway.

And, attorney Nielson has interpreted

the Shorelines Hearings Board order to mean that no permits should be granted for the areas under question at least until the Corps of Engineers study has been completed and approved.

Hough said the county could continue to issue building permits, but that each person who builds in the 100-year floodplain is required to secure a flood control zone permit from the State Department of Ecology. The state would probably deny the permit because the area is not officially mapped, Hough said.

Hough said it would save the applicant time and money to be denied at the county level rather than going all the way to the state level.

"In the past, the state was a little looser about issuing flood control zone permits," Nielson said. "In view of the recent Shorelines Hearings Board decision, however, it is unfair to issue a building permit knowing full well the state is going to deny it." Nielson went on to state, "I think it would put the county in a bad position if someone got a building permit and started building and found out 30 days or so later that they couldn't do it. By issuing permits, we are taking a risk of getting involved in a lawsuit."

The prosecuting attorney and the planning department made its recommendations for a moratorium known to the county commissioners at a meeting Wednesday. Howard Miller, commission chairman, said that because it was late in the day, no official action was taken.

"We haven't taken any action on it," Miller said. "We'll probably be studying it next week to make a decision on what should be done."

He said that the commissioners could say "no" to the recommendation of the planning department and the prosecuting attorney. But that may cause problems for the county, Miller said.

He said that the county has qualified for a flood insurance program from the federal government.

"In the past, we've qualified for flood insurance in the county by actions we've taken on building in the floodplain. Now it seems something else has come up that

might require us to make a change," Miller said.

According to Hough, if the county does not qualify for federal flood insurance, then no federally insured lending institutions can make loans to persons wishing to build on any part of the floodplain.

One possible avenue out of the problem would be for the county to appeal the Shorelines Hearings Board decision regarding Division 6 of Wilderness Village. Attorney Nielson questioned whether there would be any point in the appeal. He said an appeal may take from two to four years to complete and during that time the county would have to go by state and Corps definitions of the floodway. By that time, Nielson said, the study being done by the Corps will be complete. "I think it would be a useless gesture," Nielson said. "It would take time, effort and county money and we will still end up in the same place."

Ultimately, however, Hough said, it will be the commissioners who decide whether an appeal will be launched.

Meanwhile, Hough said, the planning department will go along with the advice of Nielson and cease issuing the permits.

According to Hough, the impact of this decision is not that great. "We don't get that many permit requests for these areas. We probably haven't issued a permit in those areas in question for nine months to a year."

Robert Schofield, planning director, doesn't think there is that much difference between what Skagit County considers the 15-year floodplain and what the Corps of Engineers considers the 100-year floodway. "I think that when the study is completed by the Corps of Engineers that it (the boundaries) will be very close to the floodplain that Skagit County has been using."

Meanwhile, however, he said he didn't feel Skagit County could take the chance of issuing permits in the areas in question.

The portion of the river that lies below Sedro-Woolley remains unaffected by the moratorium, Hough said, because the floodway is still interpreted to be between the levees. He feels certain that those boundaries will not change.

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