



200402110075

Skagit County Auditor

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AFTER RECORDING RETURN TO:  
SKAGIT COUNTY HEARING EXAMINER  
302 SOUTH FIRST STREET  
MOUNT VERNON, WA 98273

DOCUMENT TITLE: ORDER ON REQUEST FOR RECONSIDERATION AP 03 0822

HEARING OFFICER: SKAGIT COUNTY HEARING EXAMINER

APPELLANT: C. ROBERT JOHNSON

ASSESSOR PARCEL NO: P#24807

LEGAL DESCRIPTION: The subject property is located at 14067 McLaughlin Road, Mount Vernon, within a portion of Section 15, Township 34 North, Range 4 East W.M., situated in Skagit County, Washington

**BEFORE THE SKAGIT COUNTY HEARING EXAMINER**

In the Matter of the Appeal of )  
)  
**C. ROBERT JOHNSON** )  
)  
From the Issuance of a Mitigated )  
Determination of Non-Significance )  
In Connection with Proposed Grading and )  
Filling for Clear Valley LLC, an Operating )  
Dairy at 14067 McLaughlin Road )  
\_\_\_\_\_ )

PL03-0822

**ORDER DENYING REQUEST  
FOR RECONSIDERATION**

The Appellant filed a Request for Reconsideration of the Examiner's decision in this matter, issued on January 15, 2004. The Request was received on Monday, January 26, 2004. SCC 14.06.180 requires that Requests for Reconsideration be filed "within 10 calendar days" of the date of decision. The Applicant, by a letter dated January 28, 2004, has argued that the Appellant's Request is untimely.

Although the regulation does refer to "calendar days," the Examiner has followed the normal rule that filings are timely if received on the next working day after a deadline that falls on a weekend or holiday. To do otherwise would, in cases such as this, effectively reduce the already short time period to 8 days. Such an intent is not clearly manifest.

In the Request for Reconsideration, the Appellant has attempted to introduce additional exhibits into the record. The Applicant has objected. A Request for Reconsideration is not a vehicle for retrying a case. The Examiner has not considered any material not previously admitted.

The Examiner's findings were based on his evaluation of the evidence presented in open hearing. The Appellant has shown that he disagrees with certain findings, but not that a material factual issue has been overlooked in the decision.

The Appellant asserts that he would have put additional material into the record had he been allowed to rebut the Applicant's presentation. In an appeal, the Appellant has the burden of introducing evidence that will make his/her case. The Appellant was given an extended



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period of time in which to do this. The Applicant, as Respondent, was then given an opportunity to respond to the case made by the Appellant. This is all that due process requires. Allowing rebuttal by an Appellant is optional, as is allowing surrebuttal by a Respondent.

The Examiner concludes that no legal error has occurred and no material factual issue has been overlooked that would change the previous decision. Therefore, the Request for Reconsideration is denied.

**SO ORDERED** this 9th day of February, 2004.



Wick Dufford, Hearing Examiner



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