and asked for an opportunity to respond to the new information; however, the Commission Chairman ruled no new information was presented and would not let me speak. The new information is a matter of record on the tape recordings of the hearing and meeting.

C. IMPROPER PLANNING COMMISSION VOTE

Prior to the commission's vote, it was moved and seconded to approve 'about 20 lots....' However, the motion was restated by the chairman as approving Use Approval 01/89 when the vote was taken.

D. IMPROPER ADOPTION OF OFFICIAL CONTROL

The issue was raised at the earliest possible time in my letter of November 13 marked as Exhibit 10. RCW 36.70.620 only gives the Board the authority to adopt the planning commission's rezone and use approval recommendation 'by ordinance' at this public meeting. However, the staff report indicates that you would not sign the ordinance until preliminary PRD approval. Also, ICC 17.02.180 says that after preliminary use approval a second step--PRD approval--is necessary for final use approval. Since ICC 17.02.210 requires rezone approval concurrent with use approval, this means both rezones and use approvals are not final in Island County until months or years after they are granted. The effect of Island County's unlawful, arbitrary, and capricious policy and action today is to allow revisions to the rezone and use proposals AFTER the approvals are granted, AFTER the public hearing is over, and after the appeal deadline has passed, yet before the approval is even final. In the case of USA 01/89, we are looking at probable future changes to the general site plan including number of building envelopes (lots) required by ICC 17.02.180.b.3(d), and even changes to the boundaries of the PRD (legal description of the affected parcels) required by ICC 17.02.180.b .3.(a). In fact, the general site plan, which is labeled 'preliminary site plan' in Exhibit 61, will be replaced by further revisions before use approval becomes final. And the legal description of parcel 213.089 may be altered to include new land to the north line fence, all before rezone and use approval are final."

Chairman Caldwell disclosed for the record, inasmuch as the matter before the Board is a quasi-judicial hearing, that some time ago Harry Wilbert brought to him a package of material relative to water information he believes was related to this project. The Chair confirmed that he looked at the information at that time and forwarded it to staff. The material did not in any way pre-judge his attitude or decision in this particular case.

Rick McArdle, licensed landscape architect, Wright & Hardt, Inc., Land Use Consultants, Everett, representing RKP Enterprises, was present to answer questions and address concerns. He pointed out that the process had been on-going for about a year, and had gone into considerably more detail and expense than intended at use approval. He stated that both the technical and procedural items were addressed in detail and discussed thoroughly in the context of the Planning Commission hearings. Staff's SEPA mitigated determination of non-significance was appealed, and the Hearing examiner rejected that appeal based on a thorough review of the technical issues related to the case.

With regard to exhibits for the record, Mr. McArdle was not surprised that some of the scores of exhibits passed around and submitted for the record might be some trouble keeping track of; however, he felt everything of substance or in any way involved that could affect a decision of the Board was available for review. He asked that the Board adopt the recommendation of the Planning Commission, and confirmed they had no problems with the conditions imposed.

Will Dickinson, representing the Island County Economic Development Council, relayed a conversation with Keith Dearborn about the purpose of use approval--that is that the purpose in mind was that someone could come in and jot something on the back of an envelope and

that would be good enough for use approval. On the opposite end, throughout the year on this matter, Ms. Beck carried it to the other extreme. He urged that the Board approve the use approval.

The Board acknowledged Mr. Kwarsick's clarification for the record that the action of the Board involved not only use approval, but the rezoning of the property as noted in the Findings of the Planning Commission.

Commissioner Koetje moved approval of the Planning Commission Findings, Conclusions and Recommendations on Use Approval #01/89 by RKP Enterprises, Robert Porter. Motion, seconded by Commissioner Colby, carried unanimously.

APPLICATION: R.K.P. Enterprises

Permit No. UA 01/89

Administering Agency:
Island County Planning Dept.
P. O. Box 5000
Coupeville, WA 98239

Date of Planning Commission Recommendation: November 20, 1989

Name and Address of Applicant: R.K.P. Enterprises
c/o Robert Porter
5887 S. Lancaster Road
Freeland, WA 98249

to undertake the following development: Use Approval 01/89: Rezone approximately 53.8 acres from Forest Management to Rural Residential. Develop a Planned Residential Development with 20 lots and 20+ acres of open space.

upon the following property: South Whidbey Island, on Bayview Road approximately one mile north of the intersection of Bayview and SH 525 in the Southwest Quarter of Section 8, Township 29 North, Range 3 East, W.M.

Development described in this permit shall be undertaken pursuant to the conditions of the approval as set forth in the attached Findings of the Planning Commission, dated the 20th day of November, 1989.

APPROVED AND ADOPTED on December 11, 1989 by the Board of Island County Commissioners.

C. R. Caldwell, Chairman
Gordon H. Koetje, Member
Dwain Colby, Member

There being no further business to come before the Board at this time, the Chairman adjourned the meeting at 5:00 p.m., to meet in Special Session 12 December 1989 at 1:00 p.m., Terry's Corner Fire Station, Camano Island, Wa.

BOARD OF COUNTY COMMISSIONERS
ISLAND COUNTY, WASHINGTON

C. R. Caldwell, Chairman

Gordon H. Koetje, Member

Dwain Colby, Member

BOARD OF CO. COMMISSIONERS EST ISLAND COUNTY 1853 WASHINGTON

ATTEST:

Harry H. Ferrier, Island County Auditor & Ex-Officio Clerk of the Board