

**JEFFERSON COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA REQUEST

**TO: Board of County Commissioners
John Fischbach, County Administrator**

FROM: Dept. of Community Development (DCD) Long-Range Planning

DATE: October 24, 2005

**SUBJECT: Final staff recommendations and Planning Commission recommendations
for 2005 Comprehensive Plan Amendment Docket**

STATEMENT OF ISSUE:

On April 18, 2005, the Board established the 2005 Comprehensive Plan Amendment Docket based on a joint recommendation from the Planning Commission (PC) and staff. The 2005 Docket consists of nine (9) site-specific applications for amendment to the map of land use designations and one (1) set of suggested amendments for map and text housekeeping.

Staff presented analysis and preliminary recommendations through an Integrated Staff Report and State Environmental Policy Act (SEPA) Addendum on August 3, thereby initiating an associated public comment period. The Planning Commission held a public hearing on August 17 and accepted written comments through August 24. The Planning Commission deliberated on the proposals during meetings September 7 and 21 and completed findings to support its recommendations on October 19.

A. The following documents are attached:

1. Memorandum from the Planning Commission re: Recommendations on the 2005 Docket

B. The following documents are incorporated by reference:

1. DCD Integrated Staff Report and SEPA Addendum (August 3)
2. DCD Memorandum to the Planning Commission re: Additional Information on the 2005 Docket (August 11 with attachments)
3. DCD Memorandum to the Planning Commission re: Response to Public Comment and Additional Information on 2005 Docket (September 7; edited September 8 based on feedback at September 7 Planning Commission meeting)
4. DCD Memorandum to the Planning Commission re: Description of Planned Rural Residential Development (PRRD) (September 21; corrected and re-formatted for web publishing)
5. Planning Commission Meeting Minutes—in particular those from the meeting dates referenced above.
6. Written public comments submitted during the public comment period August 3 through August 24.

The documents listed under B. above have been previously distributed to the BoCC in association as Planning Commission correspondence. Documents 1 through 4 and additional information related to the 2005 Comprehensive Plan Amendment Cycle are available on this on this County webpage:

<http://www.co.jefferson.wa.us/commdevelopment/2005cycle.htm>

Planning Commission meeting minutes can be accessed from this County web portal:

<http://www.co.jefferson.wa.us/Meeting&Minutes/Meetings&Minutes.htm>

DCD staff and Planning Commission members will present their respective recommendations to the BoCC on Monday, October 24. Should the BoCC choose to schedule a public hearing on the 2005 Docket, the earliest date available date would be Monday, November 21. This would require approval of a legal notice on Monday, November 7¹ for publication in the newspaper of record Wednesday, November 9.

ANALYSIS/STRATEGIC GOALS/PROS and CONS:

The BoCC is expected to take legislative action on the proposals which compose the 2005 Comprehensive Plan Amendment Docket by the second regular BoCC meeting in December. The BoCC may take action as soon as it chooses. If the BoCC chooses to accept the Planning Commission recommendation, a public hearing is not required. If the BoCC chooses to accept the staff recommendation or to enact any other alternative to the Planning Commission recommendation, a public hearing is required by law. The earliest day that a public hearing could be held is (most likely) November 21 (see discussion above). If it were possible to hold a hearing at an earlier date, which would require pre-authorization for publication of a legal notice, staff would recommend doing so. The Planning Commission, staff, and the site-specific amendment applicants have expressed a desire to complete this year's annual amendment cycle earlier than the usual custom of finishing the work in December. A public hearing on November 21 would present a logistical challenge for completing the amendment cycle on time.

FISCAL IMPACT/COST-BENEFIT ANALYSIS:

Resources have already been committed to the 2005 Docket in 2005. If decisions are appealed to the Growth Management Hearings Board, resources will need to be committed in 2006, as well.

RECOMMENDATION:

First, staff recommends that the BoCC set and hold a public hearing on the 2005 Comprehensive Plan Amendment Docket, as numerous proposals make up the whole of the Docket and the breadth, complexity, and gravity of the issues warrant careful consideration and full and "early and continuous"² public participation. The earliest opportunity, based on required legal notice for a public hearing, is November 21, unless alternative arrangements can be made to approval a legal notice (see discussion above). Staff recommends trying to arrange for an earlier public hearing, either November 7 (with notice published October 26) or November 14 (with notice published November 2). If desired, the BoCC can extend a public hearing for submittal of written comments or continue a public hearing to another date for additional oral comments.

Second, please find in this section a description of final DCD staff recommendations for the 2005 Docket. DCD presented analysis of individual proposals and of potential cumulative impacts of the whole of the 2005 Docket, together with preliminary recommendations for each proposal, in a staff report dated August 3. In general, analysis presented in the August 3 document and subsequent memoranda to the Planning Commission is referenced rather than repeated here. Additional comments are provided where appropriate to augment or highlight staff findings. Following are brief descriptions of each of the ten (10) proposed amendments to the Comprehensive Plan, followed by a summary of differences between the final staff recommendations and the Planning Commission recommendations. Each case has a Master Land Use Application (MLA) file number for reference

¹ This preliminary schedule takes into account the fact that the BoCC generally does not meet on a 5th Monday of the month, which this month would be Monday, October 31. If it were possible to approve a legal notice in time for publication Wednesday, November 2, a public hearing before the BoCC could be held as early as Monday, November 14.

² RCW 36.70A.140 Comprehensive plans—Ensure public participation.

MLA 05-06

Applicant: McDiehl LLC; Parcel: Assessor's Parcel Number (APN) 821117005; Rezone a 0.89-acre site located at the northeast corner of the Osprey Ridge and Oak Bay Roads in Port Ludlow from MPR Residential to MPR Village Commercial Center.

Final Staff Recommendation: **Approve**, as originally recommended in staff report.

Planning Commission Recommendation: **Approve**.

MLA 05-38

Applicant: Hopkins/Barber Family Associates; Parcel: APN 601224001; Rezone an approximately 90-acre site on the Coyle Peninsula from Commercial Forest (CF) 1:80 to Rural Residential 1:20.

Final Staff Recommendation: **Deny**, as originally recommended in staff report and supported by information provided in memoranda to the Planning Commission dated August 11 and September 7.

Planning Commission Recommendation: **Approve**.

First, staff disagrees that the Comprehensive Plan narrative in the Natural Resources Conservation Element that reiterates the designation criteria from the Interim Forest Lands Ordinance should be interpreted in such a way that if a particular parcel fails to meet one of the criteria, it must therefore be automatically excluded from the Forest Lands designation. This argument was put forth by the applicant and accepted by the Planning Commission. The process of assigning a land use designation to a geographic area is such that legislative prerogative is employed in the context of established criteria when deciding which land use designation is most appropriate for particular areas. It is a matter of finding the best fit for a parcel or area. In this case, staff believes that the best fit was and continues to be Forest Lands for the subject site. As a side note, the only criteria available for use in evaluating this application are found within Comprehensive Plan narrative. The Comprehensive Plan goals and policies do not contain designation criteria, but rather lay out a process by which a "Final Forest Lands Ordinance" would be established. As was concluded when the first post-Unified Development Code request for re-designation from Forest Lands was considered by the County, an argument could be made that such a process is a pre-requisite for considering the re-designation of Forest Lands to some other land use designation.

Second, accepting the rationale of the applicant and the Planning Commission for removing this site from designated Forest Resource Lands would be ill-advised in that the same rationale would be fairly applied to most, if not all of the designated Forest Resource Lands in east Jefferson County. The essential argument put forth by the proponent is that the soils of this site are not suitable for timber production. As staff has demonstrated, and as Department of Natural Resources (DNR) staff has concurred, the soils of this site are similar to the soils of most designated Forest Resource Lands in east Jefferson County. Additionally, the landowner has had this property enrolled in the Open Space Tax Program for timber for years and harvested the land only several years ago under a DNR Forest Practices Application (FPA) that expressly was *not* for conversion of the land to some other use incompatible with commercial silviculture (i.e., Class IV General FPA). The case simply has not been made that this site is inappropriate for commercial silviculture based on soil types. Please reference the August 11 and September 7 memoranda to the Planning Commission for supporting analysis.

Third, it should be noted that Jefferson County went through an appeal process in the mid-1990s precisely because it was alleged (and found to be so by the Hearings Board) that the County did not correctly classify, designate, and protect Resource Lands. The County re-considered the original policy, designated a greater amount of Forest Lands, and provided a process by which individual cases could be argued before a Hearing Examiner. The landowner of the subject site did not exercise that administrative remedy.

Staff argues vehemently that this site should not be re-designated from Forest Lands to Rural Residential absent a programmatic evaluation of how and when parcels should be removed from the Forest Resource Lands designation in such a way that is consistent with the Growth Management Act and the goals and policies of the Jefferson County Comprehensive Plan.

MLA 05-39

Applicant: Nelson/Monroe; Parcel: APN 801213014; Rezone an approximately 16.47-acre parcel in the Dabob Valley near Quilcene from RR 1:20 to RR 1:5.

Final Staff Recommendation: **Deny**, as originally recommended in staff report.

Planning Commission Recommendation: **Approve**.

Approval of this re-zone could be considered a “spot zone” in that it would create an isolated RR 1:5 parcel surrounded by parcels with land use designations other than RR 1:5, including the smaller parcels to the north referenced in the Planning Commission recommendation as rationale for re-zoning the subject parcel. Staff believes that a more appropriate approach would be to consider an area-wide re-designation that includes the smaller parcels to the north. This could be done in a future annual amendment cycle, such as the 2006 Cycle, and include similar situations countywide.

Staff asserts that the issue is not whether it is within local legislative discretion to designate this parcel RR 1:5, 1:10 or 1:20, but which of the three Rural Residential classifications is most suitable for the parcel, based on the Comprehensive Plan criteria.

MLA 05-51

Applicant: Kirkpatrick/Skurdal; Parcel: APN 601031007; Rezone an approximately 20-acre parcel on the west side of the Coyle Peninsula from RR 1:20 to RR 1:5.

Final Staff Recommendation: **Deny**, as originally recommended in staff report.

Planning Commission Recommendation: **Rezone the subject parcel from RR 1:20 to RR 1:10.**

For the record, the alternate recommendation proposed by staff in the August 3 report is to re-zone the property to RR 1:10 with a condition that future land division be executed in conjunction with a Planned Rural Residential Development (PRRD), which is a cluster-style subdivision that mandates a percentage of open space (see the September 21 memorandum to the Planning Commission).

MLA 05-53

Applicant: Widell; Parcel: APN 001212001; Rezone an approximately 6.10-acre site on the west side of SR 20 adjacent to the Glen Cove LAMIRD from RR 1:5 to Light Industrial/Commercial.

Final Staff Recommendation: **Deny**, as originally recommended in staff report.

Planning Commission Recommendation: **Approve**.

MLA 05-59

Applicant: Olympic Property Group (OPG); Parcel: APN 821343005; Rezone an approximately 40-acre parcel near Shine on the north side of SR 104 from RR 1:10 to RR 1:5.

Final Staff Recommendation: **Approve**, as originally recommended in staff report.

Planning Commission Recommendation: **Approve**.

MLA 05-60

Applicant: OPG; Parcel: APN 821152001; Rezone an approximately 251-acre area just east of Port Ludlow, which is divided into seven separate parcels, from RR 1:20 to RR 1:5.

Final Staff Recommendation: **Deny**, as originally recommended in staff report.

Planning Commission Recommendation: **Approve**.

Staff disagrees with the Planning Commission findings. The marine shoreline parcels of five acres and less are designated appropriately as RR 1:5 based on the following Comprehensive Plan criterion for the RR 1:5 land use

designation: *parcels of similar size (i.e., 5 acres) or pre-existing smaller parcels along the coastal areas* (LNP 3.3.1.b). The parcels that make up the subject area do not and the subject area as a whole does not meet any of the RR 1:5 criteria. Rather, the subject parcels and area clearly meet the RR 1:20 criteria and in particular the following decisive criterion: *areas serving as a “transition” to Urban Growth Areas or the [Port Ludlow] Master Planned Resort* (LNP 3.3.3.c). Staff argues adamantly that the phrase “*an established pattern of the same or similar sized parcels (i.e., 5 acres) or smaller sized existing lots of record*” (LNP 3.3.1.a) does not describe this area and should not be considered justification for re-zoning a relatively large area composed of large parcels from RR 1:20 to RR 1:5.

MLA 05-61

Applicant: OPG; Parcel: APN 821332001, 821331005, 821331001; Rezone three parcels comprising approximately 158 acres near Shine on the north side of SR 104 from CF 1:80 to a combination of RR 1:10 and RR 1:5.

Final Staff Recommendation: **Re-zone only the portion of the subject area that is within the final boundary of the water service area to RR 1:20.** *Note:* The preliminary recommendation as presented in the August 3 staff report was to deny.

Planning Commission Recommendation: **Approve.**

Under the final staff recommendation, about ½ of the subject area would be re-zoned. Although this action would create a “split-zone” situation, this would be remedied through a land division process in which new parcels would be created within the Bywater Bay water service area. The northern boundary of these new parcels would be the northern boundary of the water service area. Staff believes that this limited re-designation of Forest Lands is an acceptable alternative because of the unique circumstances of this area. Taking this action would not create a precedent that could be applied widely in the county. There are few areas in which lands designated as Forest Lands on the map of land use designations are also within established water service areas.

Additionally, an RR 1:20 transition area would be created between smaller parcels designated RR 1:5 and the Commercial Forest Lands (CF 1:80), which is consistent with Comprehensive Plan policy. RR 1:20 is a preferred transition to CF 1:80 than RR 1:10 according to that same policy (LNP 3.3.3.g).

MLA 05-66

Applicant: Jefferson County; Parcel: N/A; suggested amendments for Comprehensive Plan housekeeping involving map anomalies and text and table corrections.

Final Staff Recommendation: **Approve.**

Planning Commission Recommendation: **Approve.**

MLA 05-70

Applicant: Pepper; Parcel: APN 001332009; Rezone an 11-acre parcel at the northeast intersection of Four Corners Road and SR 20 from RR 1:10 to Rural Commercial (Neighborhood Crossroads).

Final Staff Recommendation: **Deny.**

Planning Commission Recommendation: **Approve.**

Staff disagrees with the Planning Commission contention that this proposal is identical to a Limited Area of More Intensive Rural Development (LAMIRD) boundary extension proposal for the Chimacum area in the year 2002. The circumstances were not the same then, when both proposals were considered in the 2002 Docket, and are not the same now. In the Chimacum case, “built environment” included extant commercial water taps on July 1, 1990. In the Four Corners case under consideration again in 2005, a water service line runs by the property, which is a similar condition to many properties and is most likely insufficient rationale for extending a Logical Outer Boundary (LOB) under the LAMIRD criteria of the Growth Management Act. Similarly, the situation is different than that of the establishment of the two districts that compose the Glen Cove LAMIRD, a process that included third-party boundary analysis by a GMA expert chosen through an agreement between Jefferson County and the City of Port Townsend.

REVIEWED BY:

John Fischbach, County Administrator

Date