



## JEFFERSON COUNTY

### PLANNING COMMISSION

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**To:** Board of County Commissioners  
**From:** Planning Commission  
**Date:** October 19, 2005  
**Subject:** Recommendation for 2005 Comprehensive Plan Amendment Docket

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The Planning Commission is pleased to transmit its recommendations for the nine (9) site-specific applications and one (1) suggested amendment on the 2005 Comprehensive Plan Amendment Docket. The 10 proposals are listed below by Master Land Use Application (MLA) case number.

#### **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.

Recommendation: **Approve.**

On September 7, 2005, the Planning Commission voted eight (8) in favor and none opposed.<sup>1</sup>

#### **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.

Recommendation: **Approve.**

On September 21, the Planning Commission voted five (5) in favor and four (4) opposed.

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<sup>1</sup> There were eight (8) of nine (9) members of the Planning Commission in attendance on September 7.

**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.

Recommendation: **Approve.**

On September 7, the Planning Commission voted six (6) in favor and two (2) opposed.

**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.

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

On September 7, the Planning Commission voted eight (8) in favor of rezoning the property to RR 1:10 as an alternative to the RR 1:5 designation requested, with none opposed.

**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.

Recommendation: **Approve.**

On September 7, the Planning Commission voted seven (7) in favor and none opposed.

**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.

Recommendation: **Approve.**

On September 7, the Planning Commission voted eight (8) in favor and none opposed.

**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.

Recommendation: **Approve.**

On September 21, the Planning Commission voted seven (7) in favor and two (2) opposed.

### **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.

Recommendation: **Approve.**

On September 21, the Planning Commission voted six (6) in favor and three (3) opposed.

### **MLA 05-66**

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

Recommendation: **Approve.**

On September 7, the Planning Commission voted eight (8) in favor of the amendments as proposed by staff and described in the August 3, 2005 staff report, with none opposed.

### **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).

Recommendation: **Approve.**

On September 7, the Planning Commission voted seven (7) in favor and one (1) opposed.

### **In support of these recommendations, the Planning Commission enters the following findings and conclusions:**

1. Nine formal site-specific amendments and two suggested amendments were placed on the Preliminary Docket through the Comprehensive Plan amendment process contained at Unified Development Code (UDC) Section 9.4.
2. All of the amendment proposals were timely filed by February 1, 2005.
3. The Planning Commission held a duly-noticed public hearing on the Preliminary Docket on March 2.
4. The Planning Commission and the Board of County Commissioners (BoCC) held a joint workshop on March 10 concerning the Preliminary Docket.
5. The Planning Commission completed its recommendation on the Preliminary Docket on March 16, later revising its recommendation upon advisement from the BoCC.
6. The Planning Commission and the Board of County Commissioners held a joint workshop on April 6 to provide an opportunity for the site-specific

- Comprehensive Plan amendment applicants to make public presentations on their proposals.
7. The BoCC established the Final Docket on April 18 as the nine site-specific amendments plus one suggested amendment limited to “housekeeping” map and text items only.
  8. The Department of Community Development (DCD) issued an integrated Staff Report and State Environmental Policy Act (SEPA) Addendum on August 3 analyzing the proposals on the Final Docket and offering preliminary recommendations for each.
  9. The Planning Commission held a duly-noticed public hearing on August 17. Oral public comment related to proposed amendments was taken during the public hearing and written comments were accepted through the close of business August 24.
  10. DCD provided the following memoranda to the Planning Commission to supplement the record:
    - a. August 11: Additional information on 2005 Docket.
    - b. September 7: Response to public comments and additional information.
    - c. September 21: Planned Rural Residential Developments.
  11. The Planning Commission deliberated on the proposed amendments at regularly scheduled meetings on September 7 and September 21, completing deliberations on September 21.
  12. The Planning Commission recommendation matches the preliminary staff recommendation for two of the nine site-specific applications and for the one suggested amendment. For the other seven site-specific applications, the Planning Commission recommendation differs from the preliminary staff recommendation.
  13. Pursuant to UDC Section 9.8, for all proposed amendments the Planning Commission shall develop findings and conclusions and a recommendation which consider the growth management indicators set forth in Section 9.5.4.b(1) through (7), as well as (1) through (3) in Section 9.8.1.b.
  14. Inquiry into the growth management indicators referenced in #13 above was begun for the 2005 Docket through the August 3 DCD integrated Staff Report and SEPA Addendum. Planning Commissions findings and conclusions with respect to the growth management indicators are augmented by the August 3 staff findings and conclusions, except when and as noted below.
  15. Pursuant to UDC Section 9.8.1.b, the Planning Commission enters the following findings and conclusions for each of the proposed amendments on the 2005 Final Docket, except when and as noted below:
    - (1) Circumstances related to the proposed amendment and/or the area in which it is located have not substantially changed since the adoption of the Jefferson County Comprehensive Plan.
    - (2) The assumptions upon which the Jefferson County Comprehensive Plan is based continue to be valid; however new information related to rural

residential designation criteria is available which was not considered during the adoption process of the Jefferson County Comprehensive Plan.

- (3) Based upon public testimony, the proposed amendment appears to reflect current widely held values of the residents of Jefferson County.
16. In addition to the required findings set forth in UDC Section 9.8.1.b, in order to recommend approval of a formal site-specific proposal to amend the Comprehensive Plan, the Planning Commission must also make eight (8) findings as specified in Section 9.8.1.c(1) through (8).
  17. Pursuant to UDC Section 9.8.1.c, the Planning Commission enters the following findings for each of the proposed site-specific amendments, excepted when and as noted below:
    - (1) The proposed site-specific amendment meets concurrency requirements for transportation and does not adversely affect adopted level of service standards for other public facilities and services (e.g., sheriff, fire, and emergency medical services, parks, fire flow, and general governmental services).
    - (2) The proposed site-specific amendment is consistent with the goals, policies and implementation strategies of the various elements of the Jefferson County Comprehensive Plan.
    - (3) The proposed site-specific amendment will not result in probable significant adverse impacts to the county's transportation network, capital facilities, utilities, parks, and environmental features that cannot be mitigated, and will not place uncompensated burdens upon existing or planned service capabilities.
    - (4) The subject parcel is physically suitable for the requested land use designation and the anticipated land use development, including but not limited to the following:
      - i. Access
      - ii. Provision of utilities; and
      - iii. Compatibility with existing and planned surrounding land uses.
    - (5) The proposed site-specific amendment will not create a pressure to change the land use designation of other properties, unless the change of land use designation for other properties is in the long-term best interests of the county as a whole.
    - (6) The proposed site-specific amendment does not materially affect the land use and population growth projections that are the basis of the Comprehensive Plan.
    - (7) If within an unincorporated urban growth area (UGA), the proposed site-specific amendment does not materially affect the adequacy or availability of urban facilities and services to the immediate area and the overall UGA.
    - (8) The proposed amendment is consistent with the Growth Management Act (Chapter 36.70A RCW), the Countywide Planning Policy for Jefferson County, applicable inter-jurisdictional policies and agreements, and local, state and federal laws.

18. For the following amendments the Planning Commission concurs with the Department of Community Development recommendations and adopts the findings and conclusions proposed through the August 3, 2005 Staff Report and SEPA Addendum:
  - a. MLA05-06 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.
  - b. MLA05-59 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.
19. For the following amendment the Planning Commission accepts the Department of Community Development alternate recommendation proposed through the August 3, 2005 Staff Report and SEPA Addendum, except with regard to the condition of having land division occur in conjunction with a Planned Rural Residential Development:
  - a. MLA05-51 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 1:10.
20. After hearing and reading testimony from all entities with an interest in the issues brought to the commission, studying the Growth Management Act and related statutes, studying staff recommendations and rationale, reviewing the Jefferson County Comprehensive Plan and after extensive Planning Commission discussion; the Planning Commission adopted recommendations on the following amendments which differ from the staff recommendations proposed in the Staff Report and SEPA Addendum, August 3<sup>rd</sup>, 2005:
  - a. MLA05-38 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.
    - i. Based on information related to soil suitability, topography, environmental pressures and harvest yield, a majority of the Planning Commission determined the subject parcel does not substantially meet the requirements defining forest land of long term commercial significance.
    - ii. During discussion of this amendment there was extensive analysis as to whether the subject parcel contained a Department of Revenue Forest Land Grade suitable for timber production of long term commercial significance (grades 1-4). The land grades designations were based on data from the USDA Soil survey of Jefferson County. The applicant presented information that based on Soil Survey productivity criteria, 62% of the parcel translated to a D.O.R. Forest Grade equivalency of 5 or worse. GMA guidelines for forest land designation are codified in WAC 365-190-060. The statute states, "Forest land of long term commercial

significance will generally have a predominance of the higher forest land grades.” Even after examining differing interpretations of the data, there remains uncertainty regarding the true land grade value of the subject parcel. Combined with environmental restrictions due to shoreline and stream buffers, the majority of the parcel is unsuitable for timber production of long term commercial significance.

In terms of actual economic viability connecting land grades to harvest yield, there was a discrepancy between the applicant and a DNR field representative as to how much board feet per acre was harvested on the property in the past. Assuming a middle ground between estimations on harvest yield placed the subject parcel in a site index range comparable to Grade 5, according to DNR yield tables. Grade 5 does not meet the criteria for forest land designation in Jefferson County.

- iii. WAC guidelines for designating forest lands are similarly codified in 458-40-530. This statute addresses forest land tax status, land grades, and operability classes. Operability classes relate to topographic features and their impact on soil stability. Class 2 (Average) and Class 3 (Difficult) describe slopes less than thirty degrees or slopes between thirty degrees and sixty degrees on which significant soil erosion, compaction, and displacement may occur as a result of forest operations. The proponent’s amendment application states, “Approximately thirty-five percent of the site is characterized by steep slopes, with slopes that range from twenty five to fifty degrees.” Based on these factors it is fair to assume logging on the subject parcel would result in significant environmental impacts, limiting the economic viability and long term commercial significance.
- iv. 88,000 acres are designated commercial forest in east Jefferson County alone. The subject parcel represents approximately ¼ of 1% of the total. There is no direct evidence approval of this amendment will result in pressure to change other land use designations or jeopardize the supply of the county’s resource lands. 99.9% of the purpose and intent of the Comprehensive Plan remains intact.
- v. The applicant’s proposal to combine three parcels, creating four building sites, would result in a residential density of 1 per 26 acres. This does not constitute sprawl or the inappropriate conversion of undeveloped land (Goal 2, GMA).
- vi. Policies 3.1 and 4.2 of the Natural Resources Element (Adopt a Final Forest Lands Ordinance) have not been realized. Requiring the applicant to conform to Goal 3 when relevant policies have not been adopted is selective and arbitrary and in conflict with Goal 6 of GMA.
- vii. Text in the Natural Resources Element (Page 4-4) describes a process where the Interim Forest Lands Ordinance (IFLO) will be reviewed for consistency with GMA prior to adoption of a Final Forest Lands Ordinance. Jefferson County’s compliance strategy includes compliance with GMA criteria and Washington State court decisions. The IFLO does not reflect substantial 1997 GMA amendments related

to rural lands and deference to local circumstances (RCW 36.70A 3201). Also, two significant court decisions – Viking v. Holm; WA State Supreme Court, 2005, and Manke Lumber Co v. Diehl; WA State Court of Appeals, 1998 – ruled in favor of granting deference to local decision making while limiting the authority of Growth Management Hearings boards to make public policy. This represents a change in circumstances that should be considered in the adoption of a Final Ordinance. The applicant’s re-designation request should similarly be reviewed in light of these changed circumstances.

- viii. Based on growth management indicators, the Comprehensive Plan and the Growth Management Act, the Planning Commission recommends approval of this amendment.
- b. MLA05-39 Applicant: Nelson/Monroe; Parcel APN 801213014; Rezone an approximately 16.47-acre parcel in the Dabob Valley near Quilicene from RR 1:20 to RR 1:5.
  - i. Exactly what constitutes an established pattern of similarly sized parcels is ambiguous (Jefferson County Chief Civil Deputy Prosecuting Attorney).
  - ii. The subject property is bordered by a significant number of parcels that are five (5) acres or less. Approval of this rezone request would create a logical transition from smaller parcels of five acres or less to larger parcels of 10 acres or more. Approval is consistent with Land Use Policy 3.3.
  - iii. Based on a 1999 Washington Court of Appeals decision (Clark County Citizens United v. WWGMHB), the zone designation of R1:5 does not constitute Low Density Sprawl (See 1999-2000 Comprehensive Plan Amendment Cycle, Resolution No. 27-00, Page 16, Paragraph 7).
  - iv. The applicant’s proposal requests a change in density, not use. It is not inconsistent with NRP 10.9 or Goal 8 of GMA. Allowing a family member to build a home on land owned by the family for generations is not incompatible use.
  - v. Based on growth management indicators, the Comprehensive Plan and GMA, the Planning Commission recommends approval of this amendment.
- c. MLA05-53 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.
  - i. LAMIRD boundaries, if determined to be flawed, must be subject to adjustments.
  - ii. The Logical Outer Boundary (LOB) of a LAMIRD must be structured to provide for infill and thus prevent further low density sprawl.
  - iii. The subject property is consistent with the July 1, 1990 built environment and as such should have been considered along with certain lands when determining the LOB of the Glen Cove LAMIRD.

- iv. The Glen Cove LAMIRD lacks undeveloped land required for infill.
  - v. The parcels on either side of the subject parcel are in commercial use. Approval of this request is consistent with GMA infill philosophy.
  - vi. 36.70A011 (Findings-Rural Lands) states, “Further, the legislature finds that rural counties must have the flexibility to retain existing businesses and allow them to expand.”
  - vii. A currently widely held value by the residents of Jefferson County supports retention and expansion of existing business.
  - viii. This request is consistent with Policy 1.1 of the Economic Development Element and Goal 5 of GMA.
  - ix. In regard to estimates of additional land needed for employment growth, the Trottier Report Addendum dated September 27, 1999 stated, “We conclude that the estimates of additional land needed in Table 9 are substantially higher than for the land use scenarios that are being considered at the present time.”
  - x. Based on growth management indicators, the Comprehensive Plan and GMA, the Planning Commission recommends approval of this amendment.
- d.MLA05-60 Applicant: OPG; Parcel: APN 821152001; Rezone an approximately 251-acre area just east of Port Ludlow, which is divided into seven separate parcels, from RR1:20 to RR 1:5.
- i. The Planning Commission concluded that all the parcels within the planned rezone area must be considered as an entity rather than each parcel being considered individually (See 1999-2000 Comprehensive Plan Amendment Cycle, Resolution No. 27-00, Page 16, Paragraph 7). On page 1-16 of the August 3 Staff Report it states, “What constitutes an established pattern of similarly sized parcels is unclear.”
  - ii. The subject properties are bordered by a significant number of parcels that are less than five (5) acres in size. Approval of this rezone request would create a logical transition from smaller parcels of less than five (5) acres to larger parcels of five (5) acres. This amendment request is consistent with Land Use Policy 3.3.
  - iii. The applicant’s proposal is a general, non-project request for a change in density. Consideration of actual development practices or innovative planning techniques occurs at the development, project specific level.
  - iv. Roughly 90% of Jefferson County is protected from residential use. There are 50,000 acres in the county designated RR1:20. The possibility that approval of this amendment will result in pressure to change other land use designations or erode the purpose and intent of the Comprehensive Plan is unlikely to occur. 99% of the intent and purpose of the plan would remain intact. Courts have ruled RR 1:5 is an appropriate density.

- v. Approval of this amendment satisfies growth management indicator #6 (Whether changes in circumstances dictate a need for this amendment). The general location of this property is in close proximity to Port Ludlow and the Hood Canal Bridge and is subject to considerable development pressure. As such the current zoning of 1:20 is not appropriate. Growth trends in the county have for 50 years reflected a gradual shift in population from urban to rural areas. The Port Ludlow/Shine area is projected to accommodate a significant percentage of future growth in the county. This trend is born out by recent market factors indicating high demand for five acre parcels in the Ludlow/Shine area.
  - vi. The tax benefits to a financially and economically distressed county resulting from increased density are in the long term best interests of the county as a whole.
  - vii. Open space designation near the subject parcel and the presence of a large state owned parcel in the vicinity helps to enhance rural character.
  - viii. Based on growth management indicators, the Comprehensive Plan and GMA, the Planning Commission recommends approval of this amendment.
- e. MLA05-61 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.
    - i. The subject property is bordered on the south by a significant number of parcels that are less than five (5) acres in size. Approval of this rezone request would create a logical transition from smaller parcels of less than five (5) acres to larger parcels of five (5) acres followed by even larger parcels of ten (10) acres.
    - ii. The general location of this property being in close proximity to Port Ludlow and the Hood Canal Bridge is subject to considerable development pressure. As such the current zoning of CF 1:80 is not appropriate in accordance with CTED guidelines for designating Forest Land. (Page 4-2, 4-3; Table 4-1; Comprehensive Plan).
    - iii. A significant amount of the subject property is currently serviced by the Bywater Bay Water Service Area and Jefferson County PUD has assured the owner that an additional 76 connections are available. Presence of a water system in the majority of a parcel does not meet forest land designation criteria. This fact combined with the developmental pressure (See above) is a more compelling reason to rezone this property as requested.
  - f. MLA05-70 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).

- i. LAMIRD boundaries, if determined to be flawed, must be subject to adjustments.
- ii. The Logical Outer Boundary (LOB) of a LAMIRD must be structured to provide for infill and thus prevent further low density sprawl.
- iii. The subject property is consistent with the July 1, 1990 built environment using the same criteria used to evaluate the Glen Cove LAMIRD and as such should have been considered along with other adjacent lands when determining the LOB of the Four Corners LAMIRD. The property was zoned commercial on July 1, 1990.
- iv. 36.70A070 5(d) (C)iv does not require the presence of built environment on July 1990 to be criteria for individual parcels. Predominantly built environment applies to areas to be designated as a whole within a LOB, including undeveloped lands.
- v. The Four Corners LAMIRD lacks undeveloped land required for infill. When the Four Corners Crossroads LAMIRD was designated there was no acreage provided for infill.
- vi. The WWGMHB has ruled minor adjustment to LOB are permitted under 36.70A070 5(d). (August 3rd Staff Report, page 2-37).
- vii. SR 20 is a physical, logical outer boundary consistent with 36.70A0705(d)(C)iv.
- viii. The need for affordable housing represents a substantial change in circumstances since adoption of the Plan (August 3<sup>rd</sup> Staff Report, page 2-3) and is consistent with current widely held values of the residents of the county.
- ix. This request meets the provisions of Housing Element Policy 1.2 and Land Use Policy 5.3.3.
- x. In regard to estimates of additional land needed for employment growth, the Trottier Report Addendum dated September 27, 1999 stated, "We conclude that the estimates of additional land needed in Table 9 are substantially higher than for the land use scenarios that are being considered at the present time."
- xi. Based on growth management indicators, the Comprehensive Plan and GMA, the Planning Commission recommends approval of this amendment.

Based upon guidance from the Growth Management Act, the Jefferson County Comprehensive Plan, submitted written material by the applicants and staff, written and oral public testimony, and formal deliberation concerning the site-specific applications and one suggested amendment on the 2005 Comprehensive Plan Amendment Docket, the Planning Commission submits these recommendations for consideration by the Board of County Commissioners.

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Jim Hagen  
Planning Commission Chair

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Cheryl Halvorson  
Planning Commission Secretary