

JEFFERSON COUNTY PLANNING COMMISSION

MINUTES FOR JANUARY 15, 2003

- A. OPENING BUSINESS
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A. OPENING BUSINESS

The regular meeting was called to order at the WSU Learning Center at 7:00 p.m. by Chair Tom McNerney. Planning Commission members present were Pat Rodgers, Jenny Davis, Eileen Rogers, Dwayne Wilcox, Phil Flynn, David Whipple, and Edel Sokol. Todd McGuire was excused.

DCD staff present were Al Scalf, Randy Kline, and Cheryl Halvorson, secretary.

Port of Port Townsend staff present were Larry Crockett, Executive Director, and Mary Winters, Port attorney.

There were about fifteen members of the public present. Those who signed the guest list were Keith and Linda Swisher, Marty and Kari Fisher, Mort Robinson, and Larry and Donna Colfey.

The Chair invited staff reports.

Randy Kline reviewed the materials that were handed out to the commissioners at the meeting: a Clallam County Hearings Board case related to agriculture lands exemptions, a news article on a Skagit County situation on agriculture, and the legal notice for the February 5 Planning Commission public hearing.

Randy Kline stated that the county had adopted the 2001 Stormwater Management Manual with the Comp Plan amendment process as part of the Glen Cove strategy. He stated that staff would be bringing forward an amending ordinance to delay the effective date of that portion of the adopting ordinances to June or July. That would provide staff time to prepare informational materials and to work with engineers and property owners on the updated regulations. Tom McNerney commented that at the time the Planning Commission was deliberating the Comp Plan amendments, the commission had opposed adopting the 2001 Manual on staff's

recommendation. Subsequently, there had been a change and the Manual had been adopted. Mr. Kline agreed that had been the case, stating that decision had later been changed by the BOCC.

Randy Kline stated that the BOCC would hold a workshop on January 21 on the seawater intrusion issue relating to the Hearings Board Final Decision and Order. He reviewed the items from the FDO the BOCC would be discussing. They included both the 90-day and 120-day issues the county must address. He stated that the 120-day issues would come to the Planning Commission for a public hearing and recommendation.

Tom McNerney suggested revising the agenda to delete the first public comment period and go right into the introduction and discussion of the airport UDC amendments. Then the commission would entertain public comments on the presentation and discussion. His suggestion was accepted.

**B. INTRODUCTION/DISCUSSION OF UDC AMENDMENTS RELATED TO
JEFFERSON COUNTY INTERNATIONAL AIRPORT RESULTING FROM
SETTLEMENT AGREEMENT WITH PORT OF PORT TOWNSEND, MLA03-00003**

Randy Kline reviewed the genesis for these proposed UDC amendments. He summarized the amendments to the UDC that were proposed. They would clarify that the Airport Essential Public Facility Overlay District applied to all Port owned property within the Jefferson County International Airport and to any properties identified by the Port through their subarea plan and adopted through the Comp Plan amendment process. They would create an Airport Noise Overlay Zone comprised of the area within the airport's 50 decibel day/night average sound level contour. It would also include any properties lying within the FAA mandated flight pattern. Development permits would be forwarded to the Port for comment. Also an applicant signed disclosure statement would be required indicating that the applicant was aware they were located within the Airport Noise Overlay Zone and may be subject to noise and inconveniences associated with normal airport operations. Mr. Kline stated that the UDC currently had provisions for uses in close proximity to the airport, actually within the 65 DNL [day/night average sound level]. He explained that the higher the DNL number, the smaller the area. Therefore, a 65 DNL was a smaller area than a 50 DNL. Currently, permits within the 65 DNL were forwarded to the Port for comment and a notice was sent to the permittee. Mr. Kline stated that the amendments would clarify that uses inherent to a general aviation public use airport would not be considered a nuisance. It added provisions for the review of subdivisions and binding site plans requiring that the proposed uses would not result in the siting of incompatible uses within the Airport Noise Overlay Zone.

Randy Kline introduced Larry Crockett, Port Executive Director, to continue the introduction of the issue.

Larry Crockett stated that one of the things that port authorities in the state did was run airports. He displayed an aerial photo of the airport and reviewed the landmarks on it in order to orient the commissioners. He stated that the airport property consisted of about 300 acres.

Larry Crockett stated that one administrative change to the UDC that should be changed was in Section 3.6.11.b. The UDC should cover any Port property at the airport that was in the Port's

possession prior to March 5, 2001. He stated that the current zoning maps failed to show about 12 acres. He pointed out the 12 acres on the aerial photo.

Larry Crockett stated that there was no chance that the airport could expand beyond its current size because of the highways and topographical constraints. He stated that Class B aircraft could utilize the runway. He explained that Class B aircraft included small jets, commenting that they were quieter than the prop aircraft.

Larry Crockett stated that the Port was in the process of developing a Master Plan for the airport. There was a public process involved in that planning. He explained how that process was working.

Larry Crockett referred to the 65 DNL, stating that the county went beyond that requirement in notifying the Port of development permits because the 65 DNL actually only included the airport itself. He stated that the 50 DNL area proposed for the UDC only went to Four Corners Road; it did not take in much land outside of the Port's property.

Larry Crockett stated that the Port was not considering acquiring more land for airport expansion because the airport could not be expanded. He stated that any further land acquisitions would be to protect the airport. He stated that the RCW said that, concerning land use, the jurisdiction (the county) should take all possible actions within its regulations and land use codes to protect essential public facilities (airports). He stated that they thought the proposed changes that were negotiated went a long way to meet the intent of the state DOT, overlaid with the FAA guidelines, and also protected the citizens who were near the airport in assuring that the airport stayed for that purpose.

Mary Winters, Port attorney, stated that she wished to make clear what was not before the Planning Commission now. She stated that the 1998 Comp Plan directed three things. One was a Noise Overlay Zone and a Noise Overlay Ordinance. One was to look at the uses around the airport and assure that there was not incompatibility. The third was to look at the uses at the airport with the Port and assess whether uses beyond aviation related uses should be allowed. Ms. Winters stated that the last two issues were not before the Planning Commission now. As part of the settlement agreement, the county persuaded the Port that those issues would be better resolved through the Airport Master Plan which would become a subarea plan of the Comp Plan. The Airport Master Plan would come before the Planning Commission as part of the Comp Plan amendment process, and those two issues would be addressed at that time. Ms. Winters stated that the only thing before the Planning Commission at this time was to address the Comp Plan directive to adopt a Noise Overlay Zone and a Noise Overlay Ordinance. She stated that the ordinance was not being couched as a separate ordinance as was proposed before; it would be folded into the current UDC.

Mary Winters stated that when the UDC was originally adopted, the Port did not feel it implemented that Comp Plan directive. They had no option but to appeal, because if they had not appealed within that time, they would have lost their right to do so. She thought the good news was that they had tried to work with the county instead of just going through with the litigation before the Hearings Board.

Mary Winters stated that she felt sure there would be questions come up about notice to title, which was very controversial before. She stated that an earlier version of the proposed amendments to the UDC contained a disclosure provision that the county would provide realtors, title agents, and the Auditor's office as a notice of the overlay zone. She explained that the county did not want it in the code, they wanted it in a separate agreement, and the Port had agreed. Therefore, that was in a separate side agreement and was not proposed for inclusion in the UDC amendments before the commission now. Ms. Winters stated that the disclosure provision in the UDC that would go with any kind of permits was similar to those from other jurisdictions and was also similar to the one for Mineral Resource Lands.

David Whipple commented that it was essentially a notice to title, once it went to the Auditor and became part of the record on the title.

Al Scalf asked that the Port representatives address the Airport Master Plan as a subarea plan during the next Comp Plan amendment cycle and what kind of things the Planning Commission would see in that amendment.

Mary Winters explained their planning process. She stated that the county staff was involved in that process because it made little sense to deal with any land use issues without the county being involved. Ms. Winters stated that two key elements were re-looking at the uses, probably in the overlay zone, to make sure there was not an issue of incompatibility. She stated that there may be some uses, such as churches or day care centers, the Port thought may be incompatible in close proximity to an airport. Ms. Winters stated that the other was the uses at the airport itself. She stated that they would be coming forward with a proposal in the Master Plan for allowing limited uses at the airport, such as light industrial or commercial.

Larry Crockett stated that the intent of that was because, by both state and federal regulations, airport management was supposed to do all they could to make an airport self-sustaining. He stated that the airport currently lost about \$25,000 per year. He stated that by law, of all the Port properties, only the airport had to be maintained because it had that essential public facility designator. He stated that the other Port properties now subsidized the airport. Mr. Crockett stated that it would not take much additional development to make up the loss at the airport. He stated that the Port felt that with the airport acreage, they could easily absorb it [additional development] and not have an impact, because they had power and water. He stated that at one time the airport property was suggested as a possible site for a MID. He stated that if an MID opportunity came to the county, he felt that if the Port could accommodate it, the Port would "step up to the plate" to try to do so.

Mary Winters stated that the essential public facility designation really underlay the GMA and the Comp Plan policies. She stated that airports and what came with them was something that had to be worked out in the jurisdictions. Ms. Winters stated that resolving the biggest issue on neighboring properties was noise, and it was necessary to come to terms with that. She acknowledged that they were not simple issues, as was seen the last time around.

Larry Crockett stated that the county Comp Plan encouraged the Port to work with pilots and neighbors and establish a noise abatement program. He handed out a brochure that had been developed titled "Noise Abatement Procedures" that was provided to pilots in order to avoid as much as possible the residential areas and alleviate the noise issue.

David Whipple asked why a day care or a church would not be a compatible use within the 50 DNL. Larry Crockett stated that the FAA regulations specifically called out day care centers, churches, and schools as incompatible uses because they congregated large populations of people in a concentrated area for a certain amount of time. Mr. Whipple stated that a commercial day care was not allowed in those areas anyway, but a licensed home day care could occur under the current UDC. Mr. Whipple stated that his basic question was who determined what an incompatible use was. Mary Winters stated that there were some guidelines from the DOT on what was incompatible and what was not. Mr. Whipple stated that the process about how that would be applied would be appropriate for discussion as well. Mr. Crockett stated that discussion would occur with county staff and it would be brought forward during the Comp Plan amendment process as part of the subarea plan. Randy Kline stated that there was pretty substantial guidance from state agencies, noting that the DOT had an aviation division. He stated that the discussion would occur before the Planning Commission.

Jenny Davis stated that, from personal experience, she knew that airport activity was pretty quiet in the winter. She stated that some people bought or built their houses during that time and then when summer came, the flight activity picked up and those people were surprised. She stated that the common response from such people was that no one told them about the airport and the flight path. Ms. Davis stated that a notification to someone who was applying for a permit was great. However, she wondered about the person who was about to purchase a home. Mary Winters stated that the adoption of the zoning was the first step, because without that, it would be hard to know who to notify. Ms. Winters stated that the Port had drafted a disclosure document concerning proximity to the airport. She noted that county staff had not yet seen it. Ms. Winters stated that it was meant to be informational and as palatable to property owners as possible; it specifically was not a notice to title. She stated that it did nothing to existing rights. It was to address the situations Ms. Davis raised. She stated that Port staff thought it could protect the seller as well. Ms. Winters emphasized that the document was draft only at this time and county staff had not yet seen it. She added that it would be part of that side agreement that had been mentioned earlier. She handed out copies of the draft disclosure document.

Tom McNerney expressed concern about the disclosure document being part of a side agreement and that it was not being proposed as part of the UDC amendments. Mary Winters responded that it had come before the BOCC and Port at public meetings; there was nothing hidden about it. She stated that, for whatever reason, the county had decided that it was better dealt with administratively than within the code. Mr. McNerney stated that the Planning Commission would be holding a public hearing and would take the issue up with county staff.

David Whipple asked if the disclosure was what was mentioned in Section 12 on Page 19 of the line-in/line-out amendments. Phil Flynn commented that the section only addressed that it would happen. Larry Crockett stated that the details of how it would happen was in the side agreement. Mary Winters stated that the line-in/line-out provided the information that would go on permit approvals. She stated that the disclosure document itself would be what would be filed with the title companies and the Auditor's office to let people know whether or not they were in the overlay zone. Mr. Crockett stated that it would address Ms. Davis' concern about notifying potential purchasers. Ms. Winters stated that adoption of the zone was only as good as people knowing about it; that was a basic, fundamental planning problem. She stated that you could adopt a lot of things, but if the public did not know about it, it did not help the citizens.

Ms. Winters stated that people knew about ESAs and shorelines, but they did not really know about an airport overlay zone.

Tom McNerney asked if the disclosure would be something that would be attached to every piece of property within the overlay zone. Larry Crockett agreed that was the intent, stating that it would be provided to the title companies and realtors. Mr. McNerney commented that it would be the equivalent of a notice to title. Mr. Crockett stated that the agreement was that the county would do the noticing the first time only. If the Port wanted to do it at the Port's expense more often, that would be up to the Port. Mary Winters stated that "notice to title" had a legal meaning and was really something different from this proposal. She stated that originally they had wanted to file a map with the Auditor so that people could see if their property was within the overlay, similar to the ESA maps. The problem was that the Auditor would not record a map without it being certified by a surveyor. She stated that they could not get all of those properties surveyed, even if the Port wanted to pay the money for it, because you could not go on all of them. So that was not practical. This proposal was the compromise on that situation, so that people could be referred to the Port or the county to look at the map and receive an explanation from staff. Mr. Crockett stated that it would be done by blocks, pointing out areas of Irondale as an example.

Al Scalf stated that in the county's discussions in the settlement, the county avoided any reference to a notice to title, either as a means to cloud or encumber a persons property. Tom McNerney stated that this proposal would put the information out there so that if someone were to buy a piece of property, it would be readily available. He presumed that the disclosure notice to the real estate agents should make them aware. Larry Crockett stated that there was nothing in the proposal that would preclude the home or property owner from suing the real estate agent, the previous home owner, the Port, or the county. It would not take that right away from anyone.

Dwayne Wilcox asked if any title company was obligated to show in a title transfer that this overlay zone was there. Mary Winters replied that they should, but that was a question that should be asked of a title company. Ms. Winters stated that if it was recorded, and the title company was doing their job, they should find it. Ms. Winters stated that it should be disclosed as part of the real estate sale.

Dwayne Wilcox commented that there had been talk of a possible MID at the airport or increase in uses and asked if any of that would require an increase over the 50 DNL overlay. Larry Crockett replied that all of that speculation was non-airplane related; the air traffic would not be affected. Mr. Crockett described the sort of businesses the Port had held discussion with. He explained that any property that was purchased with FAA money would have to be aviation related. Any property purchased with Port money could be developed with other kinds of businesses. Mr. Wilcox was concerned that business development would generate additional airplane activity. Mr. Crockett replied that it may be and it may not be. He stated that development on non-FAA funded property could be non-aviation, provided the Port guaranteed that the money was kept at the airport to help support it financially. Mr. Crockett stated that none of the businesses they had spoken with relied on aircraft. He stated that the MID designation was not the Port's idea; it was the county's idea as a potential site because there was infrastructure. He pointed out that with Highways 19 and 20 and Four Corners Road bounding the airport, there were natural barriers to much expansion. Mr. Wilcox stated that it seemed there was a lot of potential at the airport, yet Mr. Crockett was saying there were limitations.

Mr. Crockett responded that one of the things they were to do with their current master planning process was to project out twenty years. He stated that they currently had 102 based aircraft. In 2022, it only went up to 123 based aircraft. Mr. Wilcox asked if the Port's plans for the airport took into consideration future aircraft use. Mr. Crockett replied that they did. He stated that the plan would become available and there would be a public hearing. Mary Winters stated that any future development would be subject to the required permitting process, including full SEPA review. She stated that this proposal did not resolve the issue of noise generated by businesses at the airport. Mr. Crockett stated that the FAA also overlaid other requirements, such as light pollution, smoke or haze, or anything that might cause a distraction to a pilot or obscure the runway. Mr. Wilcox asked if it would be possible to put a statement in the disclosure that it did not preclude the Port from seeking a greater noise limit. Mr. Crockett stated that he did not know if that was needed, but it could be considered. Ms. Winters stated that this did not represent an increase in noise; it just represented the noise that was already present. Mr. Crockett stated that the airport was limited because the runway length was limited because of the physical constraints and safety issues. Therefore, there was a limitation on the size of aircraft.

Phil Flynn asked if there was anything in the line-in/line-out proposal that the Port had a problem with. Larry Crockett responded that it was like any compromise, each side gave up a little bit. He stated that he could live with it although he could not speak for the Port Commissioners. Mr. Flynn commented that there was nothing in the proposal that would preclude the Port from purchasing other property. Mr. Crockett replied that there was not. He stated that the Port may purchase additional property for a safety buffer. He described some property the Port was interested in as wetlands mitigation. Al Scalf stated that if the Port purchased additional property and they wanted to put it in the essential public facilities zone, it would come through the subarea plan and would take a Comp Plan amendment.

Pat Rodgers stated that the essence of the argument as presented to the Planning Commission during the earlier noise overlay discussions was that it was only fair to notify people potentially affected by noise so they could make appropriate plans. At the time that argument was made and we talked about notice to title, it was decided that it would not interfere with a person's use of their land as long as they were notified, and they would not have a recourse to come along later and say they did not know. Mr. Rodgers stated that it disturbed him that on one hand we would be accomplishing the thing we would like to let them know, but on the other hand, contemplating restricting the free use of someone's land concerned him. He cited the example of an airport with residential uses around it where the airplanes could taxi right up to garages on the houses. Such uses may be desirable and were, in fact, very high priced properties. Larry Crockett stated that they had received some inquiries from local real estate agents about developing such a complex. He reported that the Port had turned them all down. Mr. Rodgers stated that he was not advocating that we do that. However, he did not want to preclude that either, if it was the best use. Mr. Crockett stated that was something that needed to be assessed, stating that it got into the physical limitations of the airport and costs, etc.

Concerning the notice to title issue, Larry Crockett stated that the Planning Commission minutes from 1998 included a presentation by the county Assessor. He stated that there was a fear that somehow property values would be impacted. He reported that the Assessor had indicated that there was nothing to indicate that would happen. He did not think that had changed. In fact, his research into property values indicated that it was increasing. Mr. Crockett cited an example of a real estate ad which used the airport as a selling tool.

Pat Rodgers stated that he supported noticing, but his concern was that if we went further and restricted uses that were not now restricted, he may not be supportive.

David Whipple stated that there was a list of things in the UDC proposal where the Port was "encouraged" to do its noise abatement plan, but the property owners were "prohibited" from doing things that might attract birds, for example. Larry Crockett stated that it came from the FAA requirements. Mr. Whipple stated that a strict reading of that could mean that a strawberry bush could attract birds. He thought the nuisance issue should go both ways. Mr. Whipple personally thought the Port should be "required" to do its noise abatement program and the land owners "encouraged" not to attract birds. He thought prohibiting landscaping on private property could become a contentious issue. Mr. Crockett stated that the intent was not to prohibit a backyard garden. He stated that the airport was under strict FAA guidelines for on-Port property. He thought that language should be looked at again. Randy Kline referred to Page 2, at (4)ii, which addressed prohibited uses at the airport essential public facility and stated "Any use that attracts concentrations of birds, waterfowl or other wildlife". Mr. Kline explained that prohibition was for the airport property itself. Mr. Whipple stated that there was another location in the draft where it talked about prohibited uses on property around the airport. Mr. Whipple stated that his question was who made the determination and what the criteria was for making a determination. Mr. Kline stated that any change to the use table for uses in the vicinity of the airport would have a public process, including a review by the Planning Commission. Mr. Crockett stated that, ultimately, the county would make the final decision.

Jenny Davis referred to the 1998 Planning Commission minutes, noting that there had been a lot of concern about property values. She noted that the Assessor had said that he supposed that an impact [to property values] could be perceived if it stopped a sale. Ms. Davis stated that the point should be that people needed to know the truth, that they were living in an overlay zone near an airport, and that they may be disturbed by airport noise. Ms. Davis stated that there were a lot of people who lived around the airport who wanted to live there so they could see the airplanes and the activity. It was not necessarily a bad thing. Larry Crockett stated that he had personally contacted a property owner whose house overlooked the airport and informed him that he would see and hear the airplanes. That property owner's response was that was why he built where he did.

Phil Flynn stated that if the county had taken action in 1998, there would have been a lot of houses that would have been notified that had not been. He thought inaction sometimes did not serve us well.

Pat Rodgers stated that one of the things that had been brought out in 1998 was the timeliness, given the Tri Area/Glen Cove Special Study, etc. He stated that those things had been completed. Mr. Rodgers stated that, while he had not supported the decision before, he believed the timeliness argument had been erased.

C. PUBLIC COMMENT

The Chair opened the meeting to public comments, stating that the commission would entertain questions from the public to the Port and county staff as well.

The only two people who had signed up to comment indicated that their concerns had been addressed.

Larry Colfey stated that they had moved here recently from California and had no problem with the airport. His question was why the Port could not tunnel under the highway in order to expand the runway. Larry Crockett replied that there were physical limitations on the land that would prevent the Port from doing so. One end had a wetland and a sharp incline. Mr. Crockett stated that the cost would be prohibitive as well. He doubted the state DOT would allow them to tunnel under the highway. Mr. Crockett stated that he just did not see it happening.

There were no further public comments received.

Tom McNerney thanked the Port representatives for attending the meeting to make their presentation. He stated that the Planning Commission would hold a public hearing on this issue on February 5 and would take public testimony, both oral and written, until the close of the hearing. After the hearing, the Planning Commission would hold their deliberations, which may include further questions of staff, before making a recommendation to the BOCC.

D. DISCUSSION OF PLANNING COMMISSION WORK PLAN FOR 2003

Tom McNerney stated that the purpose of this discussion was to hear from the Planning Commissioners about other issues the commissioners would like to see given some priority on the 2003 work plan that may be in addition to the list provided by staff at the previous meeting. The commissioners used a round robin process.

Eileen Rogers stated that, as a Planning Commissioner, she would like to see the commission be proactive. She thought the commission sponsoring the seawater intrusion workshop had been very proactive. Ms. Rogers stated that there were some "hot button" items that the commission could be proactive on. She thought one was the Tri Area issue. Another was the buffer issue on Highway 20. She thought there was an opportunity for the county to partner with the City to do something positive on that issue. Ms. Rogers thought there were some good things the Planning Commission could do in those areas rather than being in an adversarial situation. Another issue was the seawater intrusion issue, which appeared to still be unresolved.

Tom McNerney asked for an update from staff on those issues mentioned.

Randy Kline stated that he had been to a meeting with business owners in Glen Cove who were interested in what they could proactively do to get the buffer work going. He stated that a buffer was actually an enhancement to property values. He reported that County Commissioner Dan Titterness and Mayor Kees Kolff were also at the meeting. He thought that was a real positive outcome related to the Glen Cove buffer discussion. Mr. Kline reported that the property owners in Glen Cove would be forming a nonprofit organization in order to have more voice before the county government and to work with other property owners in Glen Cove on the buffer issue.

Randy Kline stated that the seawater intrusion issue would be coming back before the Planning Commission, probably in the form of further UDC amendments. He thought it was an area where the Planning Commission could do some brainstorming on how to address the issues the Hearings Board had identified.

The commissioners discussed the earlier seawater intrusion UDC amendment process, which ultimately resulted in the issue being remanded back to the county for further modifications. One concern expressed was that the commission had not had sufficient time. Pat Rodgers commented that there were really two approaches that could be taken. One was to satisfy the Hearings Board, which unfortunately was not generally the best answer for the people of the county. He thought we should be finding the best answer for the county residents who may have those problems. He expressed concern that the minimalist approach that had been taken in the past would be taken again. Randy Kline offered the opinion that the Planning Commission would not have been able to take as much time as it wished on the seawater issue because of the Comp Plan amendment work the commission had to undertake.

The commissioners and staff discussed the water issue on Marrowstone Island and the issue of a public water system. They discussed the will of either the PUD or the county to develop a water system. Al Scalf commented that his suggestion was to pass a moratorium on further building development on Marrowstone until a public water system was developed.

Tom McNerney summarized that there was a big interest by the Planning Commission in the issue. He suggested that the commission form a subcommittee to address the issue with staff.

The commissioners continued to discuss the Marrowstone Island water issue and the PUD process for providing water. They discussed the LID process. Randy Kline stated that he would look up the pertinent RCW and provide it to the commission as well as the pertinent section of the WUCC. Pat Rodgers stated that Brinnon was going through an LID process now and described how the process worked.

David Whipple stated that the seawater issue was already on the staff list of planning projects for 2003 and would probably be a priority project. Tom McNerney stated that the BOCC would be discussing the issue on January 21. Mr. McNerney requested that staff provide information on the BOCC's decision.

Concerning the Glen Cove buffer issue, Tom McNerney stated that staff supported a non-regulatory approach, which appeared to be what was beginning to occur. Phil Flynn suggested that the nonprofit group that was being formed might enlist the help of the local garden clubs.

David Whipple suggested developing criteria for designating mineral resource lands [MRLs] and perhaps the other resource lands as well. He thought the criteria should be more objective than what we currently had. Then they could be applied to identify such lands on the land use map in order to get ahead of the curve. Randy Kline offered the opinion that our mineral lands criteria were some of the best criteria we had in our regulations. It was pointed out that they did not identify the lands, however. Mr. Kline stated that some people would argue that the onus was on the county to designate mineral lands, with all lands meeting certain characteristics being designated. He stated that the county had opted for a situation where individuals came in and applied, because of the cost involved in the county doing a comprehensive county-wide geologic study. Mr. Whipple advocated that the county should do it. Tom McNerney stated that what he had heard from the state geologist was that it could be about a three-tiered process. You would designate MRLs based on the general geology, but then you would fine tune it. He stated that it would not cost so much to identify such lands in general terms. Mr. Whipple thought you could become more specific after doing the general designations and thought it would be an ongoing

project that would take a number of years. He thought we should start and thought there was probably a lot of sources of information.

David Whipple suggested that the county look at mixed use types of areas, such as in community centers. Such areas could have mixed uses of commercial, multi-family, and residential. He thought such a mixed use area would be a good idea for the Tri Area. He thought we should develop zoning criteria for such use. Tom McNerney stated that he had opposed the Comp Plan amendment proposal because he did not see how we could expand the commercial zones to accommodate it under the GMA. However, he thought there was an opportunity to do a redesignation of residential land around the commercial zones in order to allow multi-family and low income housing. He cited Brinnon as an example of an area where there was no place within the RVC to put any multi-family or low income housing. However, you could do a residential LAMIRD attached to the RVC. Mr. Whipple stated that we could use some creative thinking on this issue and come up with a real mixed use commercial/residential area. Randy Kline stated that we allowed mixed use now. There were provisions that allowed multi-family within the commercial area, either as a separate development or as apartments above the commercial businesses. Mr. Whipple stated that he would like to have areas outside of our core commercial areas where the mixed use would be allowed. Mr. Kline clarified that it would be higher densities around the existing commercial cores. Mr. Whipple added that they could have a commercial component. Mr. Kline stated that it would expand the commercial area. Mr. Kline stated that he wanted it to be clear to the Planning Commission that we allowed a lot of that now.

Edel Sokol referred to the Hadlock core and the old Navy housing. She thought that it would take a sewer system to get a mixed use there. She thought that would be a perfect area for mixed use and affordable housing, but thought it would not be possible without the infrastructure. Pat Rodgers stated that with a UGA, there were many opportunities and flexibility for doing such things.

David Whipple thought the county should be able to look outside the UGAs or RVCs. He thought that if there was a water system on Marrowstone, there may be an opportunity around Nordland, although it may be small. It was a small town concept that existed elsewhere. Mr. Whipple suggested that it be a topic for a meeting at least. Randy Kline agreed that there were places that used the concept. Tom McNerney wondered whether it could be addressed as a residential LAMIRD with a commercial component to it.

David Whipple suggested that the county inventory our existing commercial and industrial land by planning areas, comparing it to our needs on a county-wide basis, forecasting what would be needed in each planning area, and allocating a percentage to each one. He thought each area would probably have some sort of commercial/industrial need and should be allowed to meet that need, rather than working off a county-wide number on a first come, first served basis. Pat Rodgers commented that concept might work for a minimum. He stated that there was no maximum, which had been clearly stated a number of times. He stated that it was logical that you had to have more acres than some defined number of acres. Mr. Rodgers stated that the issue had been settled in court, citing the Clark County case. He stated that the Supreme Court had said that those numbers were a minimum; they were not meant to limit the number of acres. Mr. Whipple stated that he was suggesting an academic exercise where we looked at what each area might need. Mr. Rodgers addressed the Trottier Report, stating that people had misconstrued the report. He stated that Mr. Trottier himself had said that it was never meant to

be a limit on the number of developable acres. Mr. Whipple stated that he was not suggesting a maximum or a minimum. He was suggesting looking at the county as a whole and what was logically needed in each planning area, instead of in a piecemeal fashion.

Tom McNerney summarized that what he was hearing suggested was that we should be looking at the county as a whole, at each planning area of the county, and making sure there was enough commercial/industrial land to meet the potential need for each area.

Phil Flynn asked if the EDC was charged with inventorying the commercial and industrial lands in the county. Randy Kline replied that there was an inventory of land use codes in our commercial areas on the county web site. He stated that one could look at how much vacant land there was in each commercial area based on Assessor's land use codes. He stated that the first part (the existing inventory) was very doable. He stated that what was very difficult, and the reason Trottier went at his study in such a backward way by using numbers of employees and the amount of square footage to accommodate those employees, was consideration of societal preferences. That was very difficult to get at. Edel Sokol added that whether the land was for sale was another consideration. She questioned how one could anticipate a need.

Dwayne Wilcox stated that it seemed that the Planning Commission frequently appeared to be going in an opposite direction from the BOCC. That was frustrating. He suggested quarterly joint meetings with the BOCC to assure that everyone was following the same general line of thinking. He thought there needed to be more communication between the BOCC and the Planning Commission. Mr. Wilcox stated, for example, that there needed to be legal information available to the Planning Commission on issues before it. There needed to be more communication between all county parties involved in an issue.

Pat Rodgers pointed out that the Prosecutor had said that the BOCC was their client. He stated that, as an advisory board, the Planning Commission acted on behalf of the BOCC. He did not see that argument as being accurate. Mr. Rodgers agreed that the Planning Commission's agenda had to be the same as the BOCC's, although the commission may provide a recommendation that the BOCC did not accept. However, the Planning Commission ought not to be working on something the BOCC had no intention of dealing with.

Dwayne Wilcox stated that the Planning Commission spent a lot of time creating conditions that were ultimately not accepted, or not enforced because the county did not have the money. He desired some direction from the county describing their idea so that the Planning Commission could work together on the issues. David Whipple stated that the Planning Commission could certainly make suggestions as to what would be valid policy. Pat Rodgers stated that, in the end, the BOCC made the final decision. Edel Sokol stated that the BOCC also had to have the political will.

Phil Flynn asked why, if the Planning Commission was an advisory arm of the BOCC, the Prosecutor was not on the same page. Randy Kline stated that staff had been told in the past, in some cases, that he would not advise staff either. Tom McNerney stated that the fact was that staff got advice from the Prosecutor, unofficially. Mr. Flynn stated that the point was that the legal advice should occur up front instead of at the end. Al Scalf agreed that the legal advice should occur earlier in the process. David Whipple stated that the client (the BOCC) could direct the attorney, so the BOCC could direct the Prosecutor to work with the Planning

Commission. Dwayne Wilcox stated that was a reason why he suggested joint meetings with the BOCC. The commissioners agreed the issue should be on the work plan list.

Concerning the Tri Area, Pat Rodgers agreed with the suggestion that the Planning Commission form a subcommittee on the Tri Area or at least have a representative as a liaison on the citizen's planning group.

Phil Flynn asked about the sewer planning for the Tri Area and at what point zoning could be changed. Randy Kline explained that the way it was written in the Comp Plan, we needed to get far enough along in the sewer planning to justify zoning changes; it did not necessarily mean sewer in the ground. He stated that it was a big issue, because he thought the Tri Area was still in limbo, even though there was a UGA boundary. Al Scalf stated that there was still a lot of flexibility. He stated that the UGA boundary was set, but there was still flexibility for zoning within that boundary. Mr. Scalf stated that staff was a bit more pragmatic about involving the citizens until the sewer planning had been done so that costs were known and we had something for them to review. Pat Rodgers stated that the power of a UGA was the flexibility in zoning they had. Mr. Kline stated that what you would see, as long as it was an unincorporated UGA, was something similar to a UGA chapter in the Comp Plan that had specific policies to guide development and a discrete section in the UDC that talked about development regulations in the UGA.

Tom McNerney asked if there was a legal way for the Comp Plan to have general land use categories and have the zoning map in the UDC, rather than needing a Comp Plan amendment to change the zoning. He stated that he had been reviewing the GMA and found a section where it talked about required elements, with one being rural land use. It said that rural land use must contain areas of general land use; it did not say it had to be specific. He stated that he knew we were "hung up" on having a land use map in the Comp Plan that designated every lot in the county. He wondered whether that was really required in the GMA or if it was something we decided to do in our Comp Plan. He thought zoning maps were a part of the UDC and not the Comp Plan. He wondered whether there was some flexibility there. Randy Kline replied that he did not know. He explained that the way this county did it was the way many other jurisdictions did it. He stated that he would have to investigate the issue. Mr. Kline stated that in Port Townsend, for example, if you wanted to rezone some property, you had to go through a Comp Plan amendment process. Mr. McNerney wondered whether that was required by the GMA or if that was just a local decision. Al Scalf responded that it was planning theory. He stated that we could have a general land use map in the Comp Plan and then have the specific zoning maps in the UDC, but it would take a lot of re-work. Mr. McNerney stated that when someone wanted to do a rezone, it would still go through a public process, but it would not take a Comp Plan amendment and involve the cost in money and time. Mr. McNerney thought that would be a major change.

David Whipple suggested that the Planning Commission recommend not taking site specific amendments this year in order to take the year off to do the other work being discussed. Some commissioners did not support that idea. Randy Kline stated that we would need to provide notice. He stated that we were not required to do an amendment cycle every year. Tom McNerney stated that had been his point about the specific zoning being in the UDC rather than in the Comp Plan. It (rezoning) should be something you could do in the UDC without cluttering up the Comp Plan amendment cycle. Mr. Whipple stated that we generally only had

between five and ten site specific amendments a year, although they tended to take an inordinate amount of time. He stated that there were issues with staff availability of time, and with issues like seawater, the Tri Area, and Glen Cove, etc., it would affect more than just ten property owners. Mr. Kline stated that another thing staff had before it was the 2004 Comp Plan update. He stated that staff needed to have its recommendations for amendments to the Planning Commission by February 1, 2004. Speaking for himself, Mr. Kline stated that he would be glad to have some sort of limitation on the number of Comp Plan amendments this year, whether that be citizen suggested amendments, if not site specific amendments. He supported the Planning Commission recommending a limitation on the number of Comp Plan amendments this year.

The commissioners and staff discussed what other jurisdictions did in timing of their Comp Plan amendments. Eileen Rogers stated that the mission of the Planning Commission was to serve the public. While she empathized with the time dilemma, the commission should still be serving the public. David Whipple questioned how it served the public to serve ten property owners and not do an adequate service to 3,000 property owners in the Tri Area. Randy Kline stated that he understood both points of view. It was a question of how much could be done with the staff resources we had. If we wanted to do more, we needed more people. Mr. Kline stated that staff was not asking for more money or more people, however. Edel Sokol stated that it had to do with the political will of the BOCC, and was not something the Planning Commission could control. Mr. Kline stated that the BOCC was in a difficult position. Phil Flynn stated that it was a question of how the commission could do its work more thoroughly and efficiently. Pat Rodgers stated that something that would go a long way towards that goal would be to involve the legal arm sooner in the process because the commission seemed to spend a lot of time on legal questions. Mr. Kline stated that it was especially pertinent when the commission was dealing with issues that were the direct result of appeals and we were trying to satisfy specific conditions that were given to us by a hearing body. He stated that he understood what the commissioners were saying.

The commissioners and staff discussed the Hearings Board appeal process. Tom McNerney commented that it would be better if the county did things right the first time, rather than having to do things over as the result of an appeal. Pat Rodgers commented that even if we did it right and the Hearings Board ruled against us, it did not necessarily mean that the Hearings Board was right. He thought the county had to have proper representation to carry it to the next step. Randy Kline stated the opinion that the criticism was unwarranted, stating that the workload of the Civil Prosecutor was unrealistic. Mr. Rodgers stated that he was not talking about the quality of the representation; he was talking about the quantity. David Whipple commented that if the county came up with an enlightened policy, with the public process up front where the public "bought in", there would be no appeal and the Hearings Board would be taken out of the equation. Mr. McNerney stated that it would be better for the county attorney to say "You didn't do it right, do it over" than to have the Hearings Board say it.

E. ADJOURNMENT

Tom McNerney stated that the next meeting [February 5] would be devoted to the two public hearings (one on the WEC settlement and the other on the airport settlement). The meeting after that [February 19] would probably be for Planning Commission deliberations and recommendations. Randy Kline stated that there may also be an introduction to the further seawater intrusion amendments.

Tom McNerney suggested that, after the minutes were available, he and staff develop a letter to the BOCC on the work plan priorities the Planning Commission had suggested at this meeting. The commissioners accepted that suggestion.

The meeting was adjourned at 9:45 p.m.

F. APPROVAL OF MINUTES

These minutes were approved February, 2003.

Thomas McNerney, Chair

Cheryl Halvorson, Secretary