

JEFFERSON COUNTY PLANNING COMMISSION

MINUTES FOR JULY 16, 2003

- A. OPENING BUSINESS
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- C. PLANNING COMMISSION COMMITTEE REPORTS
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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 Eileen Rogers, Robert Morgan, Edel Sokol, Phil Flynn, Dennis Schultz, and Jenny Davis. David Whipple arrived at 7:15 p.m. Pat Rodgers was excused.

DCD staff present were Josh Peters and Cheryl Halvorson, secretary.

There were about four members of the public present. Those who signed the guest list were Gary and Mari Phillips, Ron Nowak, and Mike Whittaker.

The minutes for June 18, 2003, were approved as submitted.

The Chair invited staff updates.

Josh Peters reported that because Randy Kline would be working primarily on the UGA issue, he (Mr. Peters) would be taking on primary responsibility for the Comp Plan amendment docket.

Josh Peters pointed out the revised schedule for the Final Docket which was handed out at the meeting. Tom McNerney and Mr. Peters discussed the timing of a public hearing for the site specific amendments. Part of the discussion related to timing of the legal notices for such hearings. Mr. Peters explained that the problem facing staff was the ability to produce the staff report and the SEPA determination. Mr. McNerney asked whether the staff reports being available before the public hearing was a requirement. Mr. Peters replied that it had been the past practice to have the staff reports available to the public before the Planning Commission hearing.

Referring to the Comp Plan amendment schedule, Josh Peters pointed out that there would be two full Planning Commission meetings to deliberate and formulate a recommendation on the site specific amendments after the public hearing on August 20. Similarly, there were two meetings for the Planning Commission to deliberate and formulate a recommendation on the suggested amendments after a public hearing on October 1. The goal was to have the Planning Commission's recommendation to the BOCC finalized by the November 5 meeting.

Josh Peters reported that staff had been considering where in the Planning Commission schedule a proposed UDC amendment might be inserted. It concerned ways to improve the code, including housekeeping issues. The proposal was related to an Economic Development Council project which was looking for ways to improve efficiency for opportunities for businesses. The BOCC was also interested in some revisions.

Tom McNerney referred to the proposed hearing on the site specific amendments on August 20. He suggested that, if the site specific amendments did not present complicated issues, it may be possible for the Planning Commission to begin deliberations at that meeting and even formulate a recommendation. Josh Peters suggested that if the Planning Commission did that, it may be an opportunity for the commission to consider the UDC amendments. He explained that the amendments related to housekeeping issues (grammatical corrections) and dealing with problems the Development Review planners had noticed. He stated that staff was calling the amendment the UDC HOPE (UDC Housekeeping Omnibus for Permit Efficiency).

Dennis Schultz asked about the deadlines for the Comp Plan amendments and UDC decisions. Josh Peters replied that the Comp Plan amendments must be approved by the BOCC by their second meeting in December. However, UDC amendments could be done at any time. Tom McNerney pointed out that the Comp Plan amendments could be done earlier.

Josh Peters stated that, if the Planning Commission finished its recommendation on the site specific amendments early, it would be possible to move the suggested amendments up a little. He explained that the suggested amendments were complex, with the agricultural lands amendment currently being formulated. He stated that staff was hoping to have some Planning Commission involvement in the preparation of that proposal. He thought the airport proposal had been simplified dramatically. He reported that the seawater intrusion work was still to be done. Tom McNerney asked if staff could do much on the seawater intrusion issue until the county received the decision of the Hearings Board on the appeal. Mr. Peters replied that staff could do the amendment based upon the work that had already been passed and then make adjustments, depending upon the Hearings Board decision. Mr. McNerney offered the opinion that staff could not do too much until the Hearings Board decision was received, which would be about the middle of August.

The Chair invited public comments.

Gary Phillips stated that they were present concerning their Mineral Resource Lands Overlay application. He asked that the Planning Commission review the criteria for mineral lands designations without getting distracted by other issues.

Tom McNerney stated that the Planning Commission would hold a public hearing in about a month at which time the commission would have the staff report and take public comments on the proposed site specific amendments. After the hearing, the commission would hold its discussions and formulate its recommendation.

**B. INTRODUCTION TO AND DISCUSSION OF 2003 SITE SPECIFIC COMP
PLAN AMENDMENTS**

MLA03-182, Northwest School of Wooden Boat Building

Josh Peters provided an introduction to the proposed amendment. He pointed out the location on a county map. He stated that part of the subject parcel was inside the Rural Village Center district and part was outside. He noted that the Planning Commission had already heard a presentation by a representative from the school during the joint BOCC/Planning Commission workshop. He stated that it was essentially an issue of a split zoned parcel. He stated that in order for the school to continue with its plans to expand their campus, they would like the RVC to include the full 5-acre parcel. Mr. Peters stated that it had been suggested that the zoning issue be dealt with as part of the UGA planning that was currently under way. He stated that the school's response was that, because of grant deadlines and other things, they wanted to move forward and, therefore, made the petition.

Dennis Schultz asked about the parcel in question, stating that it was currently used for boat trailer parking for the public boat ramp. He thought the school was proposing to continue that use to the public which would be a public benefit. They were basically providing public parking without the county having to purchase the property for public use. Josh Peters stated that there was another public benefit in that the school was proposing a public trail system from the center of Port Hadlock that would actually access the pier.

Jenny Davis asked about the staff's position. Josh Peters stated that staff had not done its recommendation yet, but barring unforeseen complications, he thought staff would support the rezone. Ms. Davis pointed out that the parcel was split between two zoning designations. Mr. Peters stated that he had been assigned the Boat School's proposal when he had worked in the Development Review Division. He stated that even at that time, staff had identified the proposal as being beneficial to the community.

Tom McNerney discussed the effect of the UGA designation on the proposal. Under the UGA, it would be rezoned but could not be developed until sewer was available. Robert Morgan stated that, because of their grant funding needs, the school wanted the rezone now, rather than waiting for resolution of the UGA issue. Mr. Morgan agreed that under the UGA proposal, the subject parcel would be rezoned as part of the RVC. Mr. McNerney reiterated the belief that the rezoning could not take effect until such time as sewer was available. Therefore, the school would be held up and they did not need a sewer system. Dennis Schultz stated that they had a septic field installed already, so they would not need the sewer, at least for their initial building program.

David Whipple asked if there was any evidence of pre-1990 commercial development on the subject parcel, stating that it could support a built environment finding. Josh Peters replied that he did not think there was. Someone pointed out that it was a past mining pit.

David Whipple questioned why it would be in the county's best interests to allow a rezone now rather than waiting for resolution of the UGA, which would address the entire community's needs. He stated his understanding of the best interests for the school, but added that the commission should approve based upon the best interests for the county. Josh Peters responded that it was a point that staff would address in the staff report. Mr. Peters stated that in terms of the LAMIRD argument, we would be looking in terms of a logical outer boundary argument and the fact that it was one parcel of land, rather than concentrating on the pre-1990 built environment. Mr. Whipple stated that the more important question was why we would jump outside of our own UGA process.

Tom McNerney stated that this would be an expansion of the Port Hadlock LAMIRD. Dennis Schultz asked about the subject parcel being split between the RVC and Rural Residential designations.

It was pointed out that the parcel was split zoned. Mr. Schultz asked if the county would see any similar split zoning in other areas of the proposed UGA. Robert Morgan replied that the boundaries that were originally set split a lot of parcels between zones. He stated that the citizens group recommended that the boundaries be moved to the property lines in order to prevent that kind of thing from happening. Mr. Morgan thought all of those problems had been addressed in the current UGA boundary.

Tom McNerney stated that Mr. Whipple's point was that it would expand the LAMIRD. Robert Morgan replied that his take on the issue was that the reason there was a process like this was to address those specific instances where there were unique circumstances that arose from time to time. He recognized that there was another way to address this problem, which was to wait until the UGA issue was resolved. However, the question was whether it would impose an unusual hardship on the applicant to make them wait. He thought this was a specific and unique circumstance that warranted consideration during the amendment cycle. Concerning the benefit to the county question, Mr. Morgan thought the school was a viable entity which benefited the county.

Tom McNerney asked if staff would include in the staff report a discussion of any justification for extending the LAMIRD and how it would comply with SB 6094. He stated that Mr. Whipple had a point about the county denying other rezones because there was no built environment and Mr. Morgan had a point that this may be an exception to the rule and whether the Hearings Board would accept that argument.

Staff and the commissioners discussed whether there were other occasions where the county had split the zoning on a parcel. Cheryl Halvorson recalled two occasions during adoption of the Interim Zoning Ordinance where the county had split the zoning. One was along Rhody Drive where there was a large parcel and the other was in the Quilcene RVC. David Whipple thought the Frederickson property in Glen Cove had been split zoned, although that was done in the context of the entire Glen Cove planning.

Tom McNerney offered the opinion that the Planning Commission should not make a recommendation that would not stand up before the Hearings Board and the commission should know that ahead of time.

Tom McNerney asked if there was any infrastructure that could be construed as a built environment on the subject parcel. Josh Peters stated that he would do some investigation into the issue.

MLA03-189, ANE Forests of Puget Sound

Josh Peters provided information on the ANE Forests site specific application, which was for a rezone of 40 acres from RR 1:20 to RR 1:10. He pointed out the subject property on the county map and described the surrounding zoning. It included other RR 1:20, commercial agriculture at 1:20, rural forest at 1:40, and RR 1:10 on a portion of one side.

Staff and the commissioners discussed the fact that the parcel was split by Highway 19 (Beaver Valley Road). Dennis Schultz questioned what would keep the owner(s), after subdivision, from requesting the portion of the property on the west side of the highway from being split off as another parcel. Josh Peters stated that the Planning Commission had discussed in the past conditioning a rezone approval with a PRRD which would require dedicated open space. That could be applied to the portion of the parcel on the one side of the highway. It was something the commission and staff could consider.

Tom McNerney suggested that it would be appropriate for the Planning Commissioners to look at the site specific proposals on the ground before the commission made its recommendation.

MLA03-225, Donna Pall

Josh Peters described the proposal and pointed it out on the map. It was a request to re-designate 68 acres from Commercial Forest 1:80 to Rural Forest 1:40. He described the surrounding zoning districts, which were primarily Commercial and Rural Forest. Mr. Peters stated that the request would not accomplish the applicant's desire to subdivide into two parcels because that would take 80 acres.

Tom McNerney asked if there was a house on the property now. Josh Peters replied that there was. David Whipple commented that they could do an ADU. Mr. Peters stated that Ms. Pall's wish was to be able to allow her brother to build a house along with her own. Mr. Peters stated that an ADU would not allow the size house her brother wanted to build.

Tom McNerney asked about the Commercial vs. Rural Forest designations. Josh Peters stated that the parcel was currently zoned Commercial Forest 1:80. The request was to change the zoning to Rural Forest 1:40. He stated that it would not take the resource lands out of the resource lands category; it would just change the density and the type of resource lands. Mr. Peters stated that, looking at the criteria for forest lands, staff could support the re-designation to Rural Forest. He reiterated that the re-designation would not satisfy the applicant's objectives, however.

Tom McNerney asked if Ms. Pall would try to modify her request. Josh Peters stated that he would discuss alternatives with staff and contact Ms. Pall.

Tom McNerney asked if the Comp Plan amendment adopted in 2002 concerning forest lands would assist this situation. Josh Peters explained that it would not apply in this case. That amendment addressed small lots abutting Commercial Forest. In this case, it was Commercial Forest surrounded by other Commercial Forest and some RR 1:20. There were no small lots.

Tom McNerney asked if Ms. Pall knew that this rezone request would not accomplish her desired goal when she applied. Josh Peters replied that he knew Ms. Pall had spoken with Randy Kline. He thought Mr. Kline had informed her, but he did not know if that was before or after the submission deadline. Mr. Peters stated that he would be contacting Ms. Pall soon.

MLA03-231, Phillips/Maki

Josh Peters provided an overview of the Phillips/Maki site specific amendment request. It would re-designate approximately 36 acres from Rural Residential to a Mineral Resource Lands Overlay. He pointed out the subject property on the map. Mr. Peters stated that the Planning Commission had received a presentation from the applicant's representative that fairly thoroughly addressed the proposal at the joint BOCC/Planning Commission workshop. He stated that there was an existing MRL operation, including an overlay district established in 1997. The proposal was to add roughly 37 acres to that MRL designation. Mr. Peters stated that the applicant had done a good job of addressing the designation criteria from the applicant's perspective. It would be up to staff to look at that and formulate a staff report based upon the information we had.

Tom McNerney referred to the appeal for the Fred Hill Materials MRL, stating that a Hearings Board member had suggested that perhaps the county was remiss in not identifying all mineral resource lands throughout the county, similar to the forest lands designations the county had done. Josh Peters responded that he did not believe we could say the county was out of GMA compliance because that very Hearings Board, although with different membership, looked at that case in 1995 and decided that, due to the fact that you could do mineral extraction in forest lands, we had sufficient acreage designated. He stated that what complicated the situation in 2002 was the passage of the UDC which limited mineral extraction to 10-acre segments absent an overlay district. Absent that particular point in the UDC, Fred Hill Materials could have simply made application for a mining permit. Mr. Peters stated the belief that Jefferson County was not the only county in this situation. He stated that the county had said that it simply did not have enough information to be able to comprehensively designate all mineral lands in our county, especially when a lot of those lands were actively being used for forestry. Mr. McNerney stated that had been Al Scalf's comment, that the fact that it was forest lands automatically protected the mineral lands until such time as we wanted to use it.

Tom McNerney made the point that a MRL Overlay designation was completely separate from a project. A MRL designation merely identified a mineral lands area whereas a project application would be subject to further scrutiny. Josh Peters stated that both were subject to a certain level of scrutiny. It was a difference between a non-project and a project action. Mr. Peters stated that Mr. McNerney was correct in that this application was a separate proposal from any mineral extraction proposal. However, in making a zoning decision, the county needed to keep in mind what proposals would be anticipated.

Edel Sokol asked about the county's involvement in a project application. Josh Peters explained the permitting process, noting that the county would be involved, among other agencies, in a mineral extraction permit. However, it would not be a legislative process at that point.

Jenny Davis asked about the ability to do mineral extraction on ten acres and getting a permit for that, and then getting another 10-acre permit, and so on. Josh Peters explained that they could mine ten acres at a time but they would need a permit. Otherwise, there would not be too much restriction, other than perhaps a requirement to reclaim the first ten acres

before going on to the next. Tom McNerney stated that was part of the issue. Mr. Peters stated the belief that the ten acres would be adequate for the classic "Mom and Pop" type operation. But if you were going to do a large mineral extraction operation, the MRL Overlay was better from a business plan standpoint and from a notification standpoint to the neighboring properties.

Dennis Schultz commented that there were several parcels in this proposal. He asked if it would be possible for them to do 10-acre mines on each of those parcels without a MRL Overlay. Josh Peters replied that it was a good question that he could not answer at this time, but he would discuss it with the Director. He stated that SEPA addressed piece-mealing of projects, however. Therefore, in that scenario, the county could deny multiple permits.

Staff and the commissioners discussed protection of resource lands and mine reclamation.

Cheryl Halvorson noted the letter from David Alvarez that addressed the difference between quasi-judicial and legislative actions. She stated that the site specific amendments would fall under the quasi-judicial standard.

Tom McNerney stated that the Planning Commission would hold a public hearing on the site specific amendments on August 20 and the staff reports for them would be available to the public prior to that time.

C. PLANNING COMMISSION COMMITTEE REPORTS

By-Law Committee

Edel Sokol stated that the proposed By-Law revisions had been mailed to the commissioners and asked for comments or questions. The commissioners reviewed the proposed By-Laws section by section. There were a few questions but no suggested changes made through Section 10.

Eileen Rogers particularly noted the sub-section concerning e-mails in Section 8. Tom McNerney read an opinion concerning e-mails from an attorney (Ogden-Murphy) who represented the state at training workshops.

Josh Peters suggested the commission consider situations which would be advertised which would allow the Planning Commission to

use e-mails for discussions outside of meetings, but which would allow the public to at least see the e-mail discussions. There was some interest from the commissioners. Mr. Peters stated that he would do some research into the suggestion.

Staff raised the issue regarding the requirement for Findings of Fact (Section 11-Voting). The commissioners agreed to a modification which would require Findings of Fact on policy issues.

Some adjustments were made to Section 15-Reports.

It was agreed that the secretary would forward a "clean" copy of the By-Laws to the commissioners and the Planning Commission would vote on the final amendments at the first meeting in August.

David Whipple stated that he would be unable to attend the July 30 or August 6 meetings.

UGA Committee

Robert Morgan provided an overview of the UGA Committee's activities. He reported that the committee had met with the UGA consultants. Mr. Morgan stated that the committee would be inviting members of the Tri Area UGA Planning Group and some selected business people to their July 23 meeting. The committee also suggested a workshop of the full Planning Commission at the July 30 meeting. The committee would also meet on the morning of July 30. Mr. Morgan stated that the committee hoped to gain a sense of what the community's expectations were of the UGA at their July 23 meeting. He stated that the committee felt it was very important to get community involvement in the process and to get an understanding of what the benefits and liabilities were.

Robert Morgan stated that the public relations consultant (PRR) would be present at the next committee meeting and hopefully also at the July 30 meeting. Mr. Morgan stated that the committee was hoping to form a citizen's advisory committee from the UGA to work with the UGA Committee. He stated that the feedback the county had always gotten from the Tri Area citizens was what the county planned to do and what it would cost. He hoped the committee could get that kind of information out to the community. He stated that they wanted to get to a point where the basic public attitude was that the UGA designation would provide some benefit to the Tri Area, whether that was

economic or infrastructure, and to the broader county in general. Mr. Morgan stated that the committee wanted to gather that kind of information from the citizens and pass it on to the consultants so that their reports and design efforts would reflect a strong sense of community involvement. Tom McNerney stated that the objective was to get community input and involvement and was endorsed by the public relations consultant. Mr. McNerney referred to the support that had been shown for the Brinnon plan. He stated that the committee hoped to gain that kind of support from the Tri Area community.

Airport Committee

Tom McNerney referred to the letter from the Port of Port Townsend outlining their revisions to their Comp Plan amendment. It would basically take off the table the majority of their amendment. The only issue remaining was the noise overlay situation. He stated that the Airport Committee was not intended to work on the noise issue. Therefore, Mr. McNerney disbanded the Airport Committee.

Agriculture Lands Committee

Tom McNerney asked for an update on the ag lands issue. Josh Peters provided an update on staff's activities to date. It included a mailing to property owners and the responses the staff had received. Mr. Peters stated that he had spoken with Mr. McNerney about forming an Ag Lands Committee to work with staff on the Comp Plan amendment.

Tom McNerney appointed a committee of Dennis Schultz (chair), Jenny Davis, and Edel Sokol.

Josh Peters outlined how staff envisioned the process working. It would include drafting Comp Plan language which would probably go through the committee first and possibly include some public workshops for public involvement. He stated that staff was considering a workshop in the West End as well.

D. PUBLIC COMMENT

The Chair opened the meeting to the second public comment period.

Mike Whittaker, Quilcene, stated that their concern was with the quarry (MLA03-231, Phillips/Maki) and how the process worked. Tom McNerney explained the process and the date for the public

hearing on the site specific amendments (August 20). He stated that written comments would be taken until the close of the public hearing. Josh Peters suggested that Mr. Whittaker wait until the staff report and recommendation came out on August 6 before submitting comments.

There being no further public comments, the Chair closed the public comment period.

E. ADJOURNMENT

The commissioners and staff discussed the agendas for the next few meetings. July 30 would be the UGA workshop before the full Planning Commission. Action on the By-Laws amendments and presentation of the staff reports on the site specific Comp Plan amendments would occur on August 6. The public hearing on the site specific Comp Plan amendments would occur on August 20, with the Planning Commission possibly beginning its deliberations at that meeting. Josh Peters stated that it may be possible for staff to get the UDC HOPE proposal before the Planning Commission on August 6 as well.

The meeting was adjourned at 9:15 p.m.

F. APPROVAL OF MINUTES

These minutes were approved this _____ day of July, 2003.

Thomas McNerney, Chair

Cheryl Halvorson, Secretary