

JEFFERSON COUNTY PLANNING COMMISSION

MINUTES FOR SEPTEMBER 17, 2003

- A. OPENING BUSINESS
- B. DISCUSSION/RECOMMENDATION TO BOCC ON SITE-SPECIFIC COMP PLAN AMENDMENTS
- C. STAFF REPORT ON 2003 SUGGESTED COMP PLAN AMENDMENTS
- D. ADJOURNMENT

A. OPENING BUSINESS

The regular meeting was called to order at the WSU Learning Center at 6:30 p.m. by Chair Tom McNerney. Planning Commission members present were Phil Flynn, Eileen Rogers, Robert Morgan, Dennis Schultz, and David Whipple. Edel Sokol and Jenny Davis were excused.

DCD staff present were Al Scalf, Josh Peters, Karen Driscoll, and Cheryl Halvorson, secretary.

There were about eleven members of the public present. Those who signed the guest list were Kara Lee Monroe and Mari and Gary Phillips.

The minutes for September 3, 2003, were approved as submitted.

The Chair invited staff updates.

Cheryl Halvorson reported on an increase in the 2004 Planning Commission budget request to accommodate rental at WSU for the UGA Committee. Ms. Halvorson and Tom McNerney discussed other possible locations for the UGA Committee meetings where there would be no rent charged. Ms. Halvorson reported that she had found no other locations for evening meetings, stating that the Tri Area Community Center was booked on most evenings. Ms. Halvorson reported that the Chimacum Fire Hall was booked on Tuesday nights as well, which was the preferred meeting night of the UGA Committee. Mr. McNerney indicated that he would look into some other options. Ms. Halvorson stated that, while there may be other locations in the county that could be made available, staff felt it was important to hold the UGA Committee meetings in proximity to the UGA.

Al Scalf reported on other budget matters for 2004. He reported that the county and city were considering sharing some services. One in particular was a shared Building Official. Mr. Scalf also reported on some grants that would be available in 2004 for Long Range Planning projects. One would provide for information gathering for updating the Shoreline Master Program. Another would assist in the 2004 Comp Plan update. Both would allow the county to hire contract staff to assist in those endeavors.

Al Scalf stated that staff would present the staff report and recommendation for two of the suggested Comp Plan amendments. Both were suggested by the county. One was on the Ag Lands issue and the other was on the Seawater Intrusion issue.

Al Scalf stated that the staff report stated that the two Comp Plan amendments concerning the airport would be addressed at a later date. He explained that staff was recommending to the BOCC that the two suggested amendments be put off because of the staff workload. He stated that the LRP staff was not able to accomplish the review of all of the amendments in a professional manner. Therefore, staff was recommending to the BOCC that we delete certain items from the docket so that the county could diligently and professionally respond to the demands of the department. Tom McNerney and staff discussed the process for removing something from the docket. They also discussed whether it would be appropriate for the Planning Commission to make a recommendation to the BOCC that the issues be put off until such time as the Planning Commission received staff reports on them.

Eileen Rogers moved that the Planning Commission recommend putting off any action on the two suggested Comp Plan amendments addressing the airport (MLA03-232 from the Port of Port Townsend and MLA03-244 from People for a Rural Quimper) until such time as the Planning Commission received a staff report. Phil Flynn seconded the motion. There being no further discussion, the motion carried unanimously.

Al Scalf stated that the LRP division's focus was on the UGA planning as the priority and they wanted to devote one planner's time exclusively to that effort.

The Chair opened the meeting to public comments. There were none received.

B. DISCUSSION/RECOMMENDATION TO BOCC ON SITE-SPECIFIC COMP PLAN AMENDMENTS

Josh Peters reported that the Donna Pall site-specific Comp Plan amendment (MLA03-225) had been withdrawn by the applicant.

MLA03-231, Phillips/Maki

Al Scalf provided a handout describing the history of the Phillips' mining activities on varying parcels. He provided information on his meeting the previous week with the Phillips and their consultant. He explained that mining up to one acre was considered "exploratory". He also explained that mining up to three acres was considered "disturbed". No permits were required from the DNR for mining up to three acres. He explained that two of the criteria for designation of an MRL were that the proposed MRL be a minimum of ten acres in size and be surrounded on 100 percent of its sides by parcels of at least five acres in size. Mr. Scalf stated that "surrounding" was defined as properties within 300 feet of the proposal property.

Al Scalf stated that the Phillips had agreed to withdraw a 1.62 acre parcel, a 2.59 acre parcel, and shrink the size of the proposed MRL in order to meet the "surrounding" criterion. They would also do a boundary line adjustment [BLA] on those parcels in order to get a 5-acre parcel between Penny Creek Road and Highway 101. Concerning the criterion about parcels being a minimum of ten acres, Mr. Scalf stated that staff recommended a restrictive covenant on parcels 702224023, 024, 025, and 026 to tie the four parcels together, which would be consistent with a recent Hearing Examiner decision and Health Department practice on small lots in Irondale. Mr. Scalf stated that "Attachment C" of the handout was a possible MRL that would be eligible for the commission's approval.

Tom McNerney asked if the staff "Attachment C" was a recommendation or only a possible scenario for approval. Al Scalf responded that it was a MRL that could be approved. However, there were two conditions staff would recommend prior to approval of the MRL. One would be the BLA to make the 5-acre parcel and the other would be the restrictive covenant on the other four parcels.

David Whipple moved that the Planning Commission continue this discussion until the commission had a formal written proposal reflecting that recommendation from the applicant. Phil Flynn seconded the motion.

Tom McNerney stated that the commission should not be going forward on something that was hypothetical. It should be a recommendation from staff or

a suggested revision from the applicant. David Whipple stated the opinion that it should come from the applicant.

David Whipple stated that if the applicant made a revision to their proposal, the commission would be on much safer grounds in discussing it; it would put the commission on a more sure footing. Tom McNerney agreed in that he thought it would make it easier to hold a discussion if the commission had a formal document to discuss.

Eileen Rogers asked for staff's reasoning for not asking the applicant for a formal revised proposal. She commented that this seemed to be an ungainly method for review and recommendation from the commission. Al Scalf replied that he had been reluctant to have the applicant bring forward a revised proposal because of the experience with the Fred Hill Materials amendment where the county was criticized for allowing them to approach the Planning Commission after the public hearing was closed. Mr. Scalf thought it was adequate for the process for staff to suggest "Attachment C" with the two conditions (the BLA and the restrictive covenant). He stated that it was also appropriate for the commission to ask for it to be written up more formally. He stated that it was even appropriate for the commission to say that the MRL was still too big. That was why he was tentative in that regard.

Tom McNerney stated that Mr. Whipple's motion was asking for a written proposal. He stated that he believed Mr. Scalf was saying that he did not feel it would be appropriate to have the applicant change it. However, Mr. McNerney expressed a concern about not having something in writing. Mr. McNerney asked if it would be acceptable if the commission received a staff report with a recommendation about the MRL boundary and the conditions. David Whipple offered the opinion that the commission needed some sort of commitment from someone in order to go forward. Mr. Whipple stated that if "Attachment C" was the proposal the applicant wanted and they amended their proposal, it would be a starting point for the commission's discussion. He thought that if the commission had two or three alternatives, it would be hard to debate.

Robert Morgan asked what would preclude the Planning Commission from making the approval contingent upon the two conditions suggested by staff. David Whipple countered that if the commission made a recommendation for a revised MRL boundary with the two conditions, the BOCC would have to consider that recommendation against the applicant's original proposal. He thought it would be much better for the applicant to change their proposal.

Tom McNerney stated that staff felt that we should not make a practice of allowing applicants to revise their applications. David Whipple stated that the county had done that repeatedly. Al Scalf stated that the public, in the past, had said that it amounted to a new application and should wait until the next year's amendment cycle. Mr. Scalf stated that he did not want to put words in the commission's mouth and say that was the boundary, because it was the commission's recommendation. The commission may want to recommend something else. Mr. McNerney stated that staff typically provided a recommendation to the commission, and the commission could either agree or disagree with it, and forward its recommendation to the BOCC. Mr. McNerney stated that he did not believe the commission had the staff's recommendation in writing. He wondered if the presentation made at this meeting was sufficient.

Eileen Rogers stated that she would like the commission to use common sense, stating that there was a lot of process going on. She stated that everyone had really valid concerns. She stated that the thing that was bothering her was this process, stating that there had to be a way to get to the point and get this amendment moving forward.

Josh Peters stated that the staff recommendation at this time, considering all the public comment and the facts of the case, would be "Attachment C" and the conditions on Page 2-23 and 2-24 of the staff report. He stated that all of the conditions would be the same with the exception of Condition #1. It would no longer be a BLA but a restrictive covenant. And there would be a Condition #5 added which would reflect the removal of the two parcels between Penny Creek Road and Highway 101 with a BLA to make a 5-acre parcel. He acknowledged that staff had not had time to prepare a written recommendation to that effect because he had been working on the staff report for the suggested amendments. Al Scalf added that a portion of Parcel #702224003 would be included in the BLA to make the 5-acre parcel.

David Whipple stated that he thought it would be a cleaner process for the Planning Commission to receive a revised application with maps and language for the conditions. He pointed out that we were well ahead on our time schedule for the amendment cycle, so taking some extra time now on this amendment should have little effect. He thought that taking some extra time now could alleviate some potential legal liabilities. He thought it made sense to take the extra time.

Dennis Schultz stated that he would like to see a map with the actual proposed boundary changes. Phil Flynn asked staff's opinion about getting a revised application from the applicant. Al Scalf replied that the county had been criticized in the past. However, his main concern was that he did not want to tell the commission what its recommendation was. He stated that he could say that "Attachment C" met the criteria.

The commissioners and staff discussed the issues relating to Fred Hill Materials. Josh Peters stated that Fred Hill Materials had made an "offer" for a revision. Then staff took that offer and further modified it and made an additional staff recommendation which the Planning Commission took up and recommended to the BOCC. Al Scalf stated that the Phillips and DCD agreed to the boundary recommendation in "Attachment C". Tom McNerney stated that part of the allegations in the Fred Hill Materials case was the fact that the Planning Commission had invited experts to answer questions and provide information after the public hearing without inviting the opposition to provide a rebuttal. Mr. McNerney stated that he would caution against having the Phillips make a revision to their application. He stated that the commission could modify their proposal, but he would be apprehensive about the commission having any more communications with them directly. David Whipple stated that the county had had applications changed by the applicants repeatedly and cited some examples. Mr. Scalf stated that the issue had been raised to the Hearings Board in the Fred Hill case and the Hearings Board had not addressed it at all in their decision.

Robert Morgan asked if the commission could move forward by asking staff for specific wording regarding the conditions. Tom McNerney thought Mr. Peters had done that in explaining the revisions that would need to occur on Page 2-23 and 2-24 of the staff report. Al Scalf stated that we were under a draft staff report and SEPA addendum right now. After the commission made its recommendation, staff would finalize that report before going to the BOCC.

Mr. Morgan stated the thought that the commission's recommendation should be what the BLA condition was and what the restrictive covenant condition was [wording]. He thought the process had been going on and there needed to be some closure. Josh Peters described the BLA that would need to occur (a combination of Parcel #702224011, 012, and a small portion of 003 to make five acres). Mr. Peters explained that the restrictive covenant would be to combine the four other parcels for development purposes of the mineral resource extraction activity. However, after the mining activity and reclamation was completed, it was possible to break that covenant and restore those rural residential parcels. Mr. Scalf stated that it was sufficient for the Planning Commission to require the BLA as a condition of approval of the MRL. Then the Phillips must apply for the BLA and pay the fees and go through that process and get a final decision by the time the BOCC made their final decision. In addition, they would be required to perform a restrictive covenant on Parcel #702224023, 024, 025, and 026. Mr. McNerney asked if that would solve the problem before the commission. Mr. Scalf responded that it was the simple way to do it. David Whipple stated that the simple way to do it would be for the commission to receive an amended application that said those things. Then the commission could vote to approve it, the staff would say that was the staff's recommendation, and it would go forward to the BOCC.

There being no further discussion on the motion to continue the matter until the commission received a revised application, the motion failed with two in favor and four opposed.

Eileen Rogers moved that the Planning Commission accept the staff recommendation for MLA03-231 with the following proviso: a restrictive covenant for Parcel #023, 024, 025, 026, 003, and 010 and do a BLA using Parcel #011, 012, and a portion of 003 to make a 5-acre parcel and reference Attachment C dated 9/17/03. Robert Morgan seconded the motion. There being no further discussion, the motion carried with five in favor, none opposed, and one abstention.

Al Scalf stated that the final staff report would reflect that motion.

The commissioners and staff discussed the timing of the Planning Commission report to the BOCC on the site-specific Comp Plan amendments. At issue was whether to send a separate report on the site-specific amendments or to do one report on all of the amendments. Tom McNerney suggested that staff prepare a report on the site-specific amendments for the commission's approval even though the BOCC would not need to hold a public hearing until they would normally do so. The commissioners and staff discussed the commission's review of the Planning Commission's recommendations on the site-specific amendments. It was suggested that the report be divided into sections so that those who voted against certain amendments could be excused. Josh Peters stated the opinion that what the commission would be voting on was whether the report accurately reflected the commission's decisions; it would simply be approving the report.

Al Scalf stated that UDC Section 9.8 stated that the commission's options for recommendations were to approve, deny, or approve with conditions or modifications. Tom McNerney stated that was what the commission did in the Phillips' case; it approved their application with modifications. Mr. Scalf stated that was the public process.

C. STAFF REPORT ON 2003 SUGGESTED COMP PLAN AMENDMENTS

Josh Peters presented the staff report and SEPA addendum for the suggested Comp Plan amendments. He reviewed certain sections of it. He briefly reviewed the line-in, line-out language proposed in Section 2 of the document. He spent some time reviewing the table on Page 2-16, which was a comparison of current and proposed land use district designations and depicted the current and proposed acreages for Ag Lands. While the table was complicated, it represented the categories that would be eliminated and the categories that would be created under the Ag Lands proposal. Mr. Peters stated that the final result would be that the Agriculture Production District category and the Local Agriculture district, which was unused, would be eliminated and two new categories would be created. One would be Prime Agricultural Land at 4,246 acres and the other would be Local Agricultural Land at 86 acres. Those designations would capture the GMA ag lands. Mr. Peters stated that there was the potential for additional acreage to be designated during the 2004 amendment cycle given the number of people who had expressed an interest.

Josh Peters stopped his presentation at this point in order to allow discussion and questions concerning the Ag Lands section of the report.

Phil Flynn asked if there would be a map that would go along with the proposal. Josh Peters replied that there was not yet a map specific to this proposed amendment. However, it was basically already mapped but one would have to add the 86 acres of local ag and take out the Ag Production District and only think about the commercial ag lands. Mr. Peters stated that staff had an internal working web site in order to do some analysis. He stated that staff would be developing maps to go along with next year's amendment cycle. He did not know if there would be time during this cycle.

Dennis Schultz stated that the Comp Plan now had the two types of ag zoning districts and they were treated separately in the UDC. He stated that this proposal simplified the designations and also simplified the code, stating that there was no advantage before to having them separated.

Josh Peters referred to the discussion in the staff report beginning on Page 2-17 which explained the reasoning for the proposal and included a SEPA supplemental sheet for non-project actions. Mr. Peters stated that the staff recommendation, which was to adopt the Comp Plan text amendments, was on Page 2-20. He explained that the Comp Plan land use map would be amended under this proposal to remove the districts from the map. However, no parcels would actually be rezoned at this point. Commercial Agriculture would be renamed Prime Agriculture. And Local Agriculture would be added to the map. Then next year, we may add other agriculture parcels to the map.

Josh Peters pointed out the integrated GMA/SEPA notice which included the notice for the Planning Commission public hearing on October 1. It also acted as the 60-day notice to state agencies. That notice was included in the staff report and recommendation document. The commissioners and staff discussed the timing of the commission's review and recommendation to the BOCC.

Josh Peters stated that the "wild card" in the process had to do with the airport issue. Mr. Peters stated that the county had just received proposed line-in, line-out language from the Port in late August and had just recently received supplemental information and SEPA documentation. He stated that

because it was a comprehensive proposal, staff could not review it properly within the time now available. Mr. Peters stated that, depending upon the BOCC's decision regarding the airport issue, the timing for the Planning Commission on the suggested amendments could be affected.

Al Scalf discussed the SEPA analysis and suggested that the Planning Commissioners take time to discuss the SEPA issue in relation to these amendments. A question for consideration was how much SEPA analysis was enough at the non-project level. David Whipple suggested that Question #4 on Page 2-19 might include a discussion about possible effects on environmentally sensitive areas. Dennis Schultz pointed out that people could do anything on rural residential lands that they could do on agriculture land. Mr. Scalf stated that this SEPA review was an addendum and there were no alternatives being evaluated. Karen Driscoll explained her reasoning for the discussion about the impact, stating that it should come during the UDC amendment process.

Josh Peters reviewed the Seawater Intrusion amendment proposal. The additional Comp Plan text language would incorporate the seawater intrusion policy adopted in 2002. Mr. Peters explained that the items in brackets and underlined beginning on Page 2-30 referred to existing Comp Plan policies, noting that there was already policy language in the Comp Plan addressing groundwater quality. Beginning on Page 2-33, there were references to proposed new policies in brackets and underlined that resulted from the Coastal Seawater Intrusion Policy of September 24, 2002. Mr. Peters noted that staff included in the Appendix some current UDC references and the DCD Administrative List of Water Conservation Measures.

Phil Flynn asked if there was any reference to funding. Josh Peters replied that there was not specific language. He referred to ENP 2.8 at the bottom of Page 2-22 which included "identify technically and financially feasible measures for remediation". Mr. Peters stated that if it was something the commission felt should be specifically addressed, the policies could be amended.

Phil Flynn asked if there were references to Health Department policy. He stated that he had discussed the issue with Larry Fay of the Health Department and Mr. Fay had indicated that he would adapt the revised policies already adopted into the health standards.

Al Scalf asked Mr. Peters to address the Hearings Board compliance order and hearing. Josh Peters stated that this proposed Comp Plan language was an attempt to address the Hearings Board order. He reported that there had been a compliance hearing before the Hearings Board. They had indicated that it would take up to ten weeks for their decision. He stated that it was possible that the decision would arrive before the BOCC made their final decision on this Comp Plan amendment.

Phil Flynn asked for staff's opinion about the petitioner's stance on the county's compliance. Josh Peters replied that the Planning Commission had received a copy of the petitioner's response to the Hearings Board and it had been quite critical of the county's compliance.

Tom McNerney suggested that the Seawater Committee meet to review the Seawater Intrusion proposal before the Planning Commission's public hearing. Phil Flynn commented that one thing that had jumped out at him already were the references to WRIA. The commissioners and staff briefly discussed the

WRIA process. Mr. McNerney asked the Seawater Committee to set a meeting date and time in coordination with the secretary.

Al Scalf called particular attention to Appendix Item #3, the DCD Administrative List of Water Conservation Measures.

D. ADJOURNMENT

There being no members of the public present, no public comment period was offered.

David Whipple provided information on his daughter's soccer team which had a record of 28-0-1 over four years and routinely beat the U-11 boys team.

The next meeting will be on October 1 and will be a public hearing on the two suggested Comp Plan amendments. The commission may hold a discussion on the amendments after the hearing, although the commission will likely make no recommendations at that meeting.

Al Scalf thanked the Planning Commission for their motion concerning the airport amendments, stating the opinion that it would be helpful to the BOCC.

The meeting was adjourned at 8:30 p.m.

E. APPROVAL OF MINUTES

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

Thomas McNerney, Chair

Cheryl Halvorson, Secretary