

JEFFERSON COUNTY PLANNING COMMISSION

MINUTES FOR APRIL 20, 2005

- A. OPENING BUSINESS
- B. STAFF UPDATES, 2004 ADOPTED COMP PLAN, AND PROPOSED 2005  
"HOUSEKEEPING" AMENDMENTS
- C. PRESENTATION/DISCUSSION ON UDC OMNIBUS PROJECT
- D. PUBLIC COMMENTS
- E. ADJOURNMENT

**A. OPENING BUSINESS**

The regular meeting was called to order at the WSU Learning Center at 6:30 p.m. by Chair Allen Panasuk. Planning Commission members present were Dennis Schultz, Jim Hagen, Phil Flynn, Bud Schindler, Edel Sokol, and Peter Downey. Mike Whittaker was excused.

DCD staff present were Kevin Russell, Kyle Alm, and Cheryl Halvorson, secretary.

There were about five members of the public present. Those who signed the guest list were Rich Holtman, Richard Broders, Kevin Widell, and C. Monson.

**B. STAFF UPDATES, 2004 ADOPTED COMP PLAN, AND PROPOSED 2005 "HOUSEKEEPING" AMENDMENTS**

Kevin Russell handed out copies of the updated Comp Plan chapters. He reported that staff had done some grammatical and formatting changes. There were also some additional "housekeeping" amendments that were being proposed for this year under MLA05-66. Cheryl Halvorson reported that the new, complete Comp Plan was being sent to the printers.

Kyle Alm provided an update on the Hearings Board hearing regarding the UGA. The Hearings Board members had shown considerable interest in the old platted lots in Irondale and how development had occurred. They asked questions about allowing septic systems in the residential areas instead of providing sewers. There were also questions about sewers, or the lack thereof, in the core areas of the UGA and the effect on development. Mr. Alm pointed out that the petitioners must show that the county was "clearly erroneous". The Hearings Board's options were to find the county's action to be valid, that ICAN had not shown that the action was clearly erroneous, or to find the county non-compliant and give the county a specified time to become compliant. He reported that the Hearings Board's decision was expected in about sixty days.

Edel Sokol pointed out that not everyone in Port Townsend was hooked up to the city sewer; there were some places still on septic systems. She wondered whether parts of Port Townsend would be designated rural if the Hearings Board found that septic systems were not an urban service. Kyle Alm responded that it was an interesting question. He stated that there were conflicting decisions or information regarding that issue. He stated that there was no good definition within the GMA about whether septic systems were an urban service. Such things as domestic water systems, fire protection, etc. were listed as services under both rural and urban. He stated that the only things that were specifically mentioned as urban were sanitary sewer and stormwater sewers. He stated that cities were operating under a different set of laws than the counties. Jim Hagen stated that he remembered seeing something in the GMA about UGAs and sewers.

Jim Hagen stated that he had asked staff if any of the Hearings Board members had ever visited the UGA. He noted that the county Hearings Examiner typically made site visits prior to his hearings. He thought that would be an integral part of any hearing process. Kyle Alm replied that he did not know if any Hearings Board members had visited the area. However, they had been provided with an aerial photo and map of the UGA.

Regarding the cost of Hearings Board appeals, Kevin Russell stated that staff had contacted other county departments asking for that information. It had

not been provided to DCD. At this time, staff had nothing further to provide to the Planning Commission. He suggested that if the Planning Commission wished to send a formal letter to the County Administrator requesting the information, staff would be happy to deliver it.

Edel Sokol moved that the Planning Commission write a letter to the County Administrator requesting a breakdown of the cost of Hearings Board appeals from January 1, 2000, to the present and to keep the figures updated. That date should include any earlier appeals that were still active. Dennis Schultz seconded the motion.

Jim Hagen stated that he would also like to know the cost to the county of growth management planning, period, and what had the county received for its investment. While he thought it was good to identify how much the appeals were costing the county, he thought the greater issue was actually the level of planning that was really sophisticated, metropolitan, urban planning strategies that were applied to a city of 8,000 (Port Townsend) and a county of 28,000. The commissioners thought that was a different subject.

Bud Schindler stated the belief that the costs of appeals should be related to the amount of money expended annually for planning.

The motion to write a letter to the County Administrator carried unanimously.

Edel Sokol stated that oftentimes decisions were made behind closed doors. Kevin Russell explained that when a settlement agreement was reached on some Hearings Board appeal cases, staff would meet with the appellant to reach a settlement offer. Such amendments would then go through a full public process, in most cases including a public hearing before the Planning Commission.

Kevin Russell handed out color maps for two site specific Comp Plan amendments: MLA05-28 and MLA05-39. The color maps had been requested at the last meeting. He reported that staff was proposing that sufficient color maps be included as part of the UDC requirements, when a proponent included color maps in their application.

Kevin Russell handed out copies of the Long Range Planning work schedule for the first three quarters of the year.

Jim Hagen asked about the amount of time staff spent on the LUPEDAP process. Kevin Russell replied that all three planners worked on it, with Josh Peters heading up the project. He reported on the amount of time he had spent.

Bud Schindler stated that he found the LUPEDAP process to be confusing. He stated that he did not see a mission statement or objectives and goals. He did not see a chart about the flow of information and the recipients of the information. He wondered about the duration. He wondered about what product the LUPEDAP would produce and how the Planning Commission would react to it.

Jim Hagen stated that the packet that had been mailed to the Planning Commissioners included a mission statement and strategic goals. Kevin Russell clarified that the information referred to was a copy of a slide presentation provided to the LUPEDAP panel. It showed the county's mission statement and goals. Bud Schindler stated that he could understand that. His question remained where the LUPEDAP was coming from. He stated that he did not even know what the grant was based on. He thought that should give

some sort of direction as to the objectives, the mission, the process to be used, the approach, the data flow, how long it would take, etc.

Jim Hagen stated that the notes for the March 23 LUPEDAP meeting indicated that there were seventeen people present. Eleven of those were either staff or members of the EDC. His concern was that, given the time demands on planning staff, it seemed like a lot of what he had seen on the LUPEDAP could be done through the UDC Committee. While he understood that part of the objective of the LUPEDAP was to provide community input, it seemed that there was an overlap in functions that he was not sure was productive. He stated that the public input function could be accomplished by those people coming to the UDC Committee or Planning Commission meetings.

Kevin Russell discussed the grant funding, stating that the grant was intended to work with the UDC Omnibus process. He stated that LUPEDAP may be inactive for awhile after that until the county had an issue upon which it wanted to consult with experts in their field. Then the county would have a panel already formed with which to consult.

Jim Hagen described several of the agenda topics for the LUPEDAP panel. He stated that all of those topics were being addressed by the Planning Commission UDC Committee as well. He acknowledged that all of the topics had to do with economic development. It seemed to him that the original intent of the LUPEDAP was getting off into side areas that could be addressed in other forums.

Allen Panasuk stated that the commission heard a lot about time and money constraints. He thought the concern was that staff should make the best use of time and resources.

Edel Sokol commented that the LUPEDAP sounded like another Planning Commission. Kevin Russell responded that it was not intended to take the commission's place in any way. He stated that, in his opinion, there was value in hearing what they had to say. He stated that there were people he had never had a dialog with before and they had brought forward some issues that had surprised him. He stated that staff was hoping the LUPEDAP could provide some suggestions that staff could then bring to the Planning Commission.

Bud Schindler wondered whether there was anyone on the LUPEDAP group who really understood what the Planning Commission did. He wondered whether the group should be under the EDC rather than under the Long Range Planning division. It seemed like their activities were more EDC related.

The commissioners and staff briefly discussed the industrial land bank issue and the related industrial land inventory.

Allen Panasuk raised the issue of the work plan. He asked about the possibility of moving the site specific amendments forward instead of starting them in the third quarter. He stated that his reasoning was that there was an opportunity, if nothing else, to put tax revenue into the county. Kevin Russell stated that the commission could certainly prioritize the list however the commission saw fit. He stated that staff had always planned for the Omnibus first with the site specific amendments afterward. He stated that staff was working on all of the issues at the same time. Mr. Panasuk stated that he was not sure he wanted to recommend doing it, but he wanted to raise the question and hear the other commissioner's thoughts. Mr.

Russell stated that the only problem he saw was that we were well underway with the Omnibus process and were getting close to having a draft. He stated that staff hoped to have a draft out in mid-May in order to start soliciting comments. Keeping to the schedule would provide more time to get comments on the Omnibus. If we put the Omnibus back, it would mean less time for public comments.

Dennis Schultz stated that there were a number of meetings on the Omnibus. He thought the topics would not take full meetings. He wondered whether the site specific amendments, or some of them, could be done concurrently during parts of those meetings as well. Kevin Russell responded that staff was working on the site specific amendments. He pointed out that a SEPA review must be done before they could go to public hearing. He reported that LRP was considering hiring a consultant to do the SEPA review work. The department was looking for the money to see if we could do that. Otherwise, it would all be done in-house.

Peter Downey suggested that perhaps some of the easier amendments could be done earlier. Then the more difficult amendments could be done later. Staff pointed out that under that scenario, two SEPA reviews and reports and two public hearings would be required. Mr. Downey thought that the SEPA analysis on a single lot being rezoned would be much easier than that for a 125-acre parcel.

Jim Hagen asked if staff had received any follow-up from the one applicant who wanted to do a cluster and it had been suggested that they consider a PRRD. Kyle Alm replied that he had been in contact with them.

Bud Schindler stated that he had been contacted by neighbors of one applicant. He suggested that staff visit the site during the rainy season to evaluate the erosion potential.

Bud Schindler stated that some jurisdictions did rezones under their UDCs rather than through their Comp Plans. Kevin Russell explained that our Comp Plan set the zoning districts. That was the reason for doing rezones under the Comp Plan amendment process. He explained how other jurisdictions handled rezones under their development regulations.

Phil Flynn stated that the county did not allow site specific amendments in 2004. Proponents were asked to wait until 2005. He thought there was a fairness issue to the proponents.

Dennis Schultz asked, if the site specific amendments were expedited and a decision by the Planning Commission was made earlier in the year, if the BOCC could make their decision earlier as well. Kevin Russell replied that it was possible to do that under the UDC and the BOCC's final decision would be effective at the time. They did not have to wait until December.

Dennis Schultz moved that the Planning Commission recommend that staff start working on the site specific Comp Plan amendments so that the Planning Commission could start reviewing them earlier in the year and make its recommendations to the BOCC so that they could make their final decision earlier in the year rather than waiting until December. Jim Hagen seconded the motion which carried unanimously.

Jim Hagen referred to the "housekeeping" amendments. He asked about MLA05-68. Staff thought that amendment related to the Sunfield Farm property that

was now zoned Ag Lands of Local Importance, but a portion of the land was within the UGA. That issue would now be included as part of the housekeeping amendment under MLA05-66.

Phil Flynn referred to the copy of the BOCC agenda request concerning the County-wide Planning Policy. He noted that the agenda request said that the BOCC must hold a public hearing on the final amendments but that they must be agreed to by the city. He questioned why the city must be in agreement with the county on the CWPP. He stated that meant the city held a hammer over the county. Bud Schindler asked if the draft CWPP were provided to the Planning Commission merely for informational purposes or whether the Planning Commission would take some formal action on them. Kevin Russell replied that it was informational.

Jim Hagen reported on the Growth Management Steering Committee meeting, stating that the CWPP language did say that the city and county must be in agreement on the CWPP amendments. He expressed some concerns and issues with the draft. He read a section of the GMA (RCW 36.70A.210) concerning the initial establishment of county-wide planning policy when comp plans are originally adopted. The thinking was that there needed to be regional coordination between the county and all of the cities within that county. He read a section of the RCW which said "shall adopt a county-wide planning policy in cooperation with [emphasis added] the cities". However, what they were talking about was an amendment process. He stated that RCW 36.70A.215 really governed how you reviewed, monitored, evaluated, and, if necessary, amended the CWPP. RCW 36.70A.215 said "The county shall adopt, in consultation with its cities, county-wide planning policies to establish a review and evaluation program." He offered the opinion that they did that in 1992. He thought the county and city, in consultation in 1992, established a review process. What came out of that review process was that they arbitrarily decided to add the language to the CWPP that they must agree. He thought the CWPP provided the city with veto power over the county's planning, but it gave the county no power over the city's planning. It went back to the issue of what it cost to do our planning. Mr. Hagen noted that RCW 36.70A.215 only applied to counties with a population greater than 150,000. In 1992, the county voluntarily decided to comply with the criteria of the GMA. What that did was that, in order to change the CWPP, you had to go through an elaborate process that was really designed to govern more intense growth in metropolitan areas. He thought it was an example of how hamstrung a small county like Jefferson County had become by voluntarily complying with something that was excessively detailed and costly.

Bud Schindler stated that the original requirement for the CWPP was as predecessor in preparation for the comp plans. He read from the RCW which said "For the purpose of this section, the county-wide planning policy is a written policy statement or statements used solely [emphasis added] for establishing a county-wide framework from which county and city comprehensive plans are developed and adopted pursuant to this chapter." He agreed with Mr. Hagen that the usefulness of the CWPP was over; we were beyond that because we had our comp plans. He did not think we needed a CWPP any longer.

Bud Schindler moved that the Planning Commission found that the County-wide Planning Policy was used for the Comprehensive Plan development, the Comp Plan was complete, and, therefore, there was no further need for the CWPP. Edel Sokol seconded the motion.

Peter Downey stated that he did not have enough information to be able to vote. He wanted to look at the RCWs. Jim Hagen stated that he would abstain because he thought it was still mandatory to have a CWPP, because it was still necessary to have that coordination. The commissioners discussed tabling the motion.

Phil Flynn moved that the motion be tabled until the next meeting in order to do more research. Edel Sokol seconded the motion which carried unanimously.

### **C. PRESENTATION/DISCUSSION ON UDC OMNIBUS PROJECT**

Kevin Russell prepared to provide a Power Point presentation on the UDC Omnibus. He stated that it was similar to the one given at the LUPEDAP meeting. The commissioners had been provided paper copies of the Power Point slides. Some commissioners questioned the need to see the slide presentation since they had received the paper copies.

Edel Sokol moved that the Planning Commission forego the Power Point presentation. Bud Schindler seconded the motion.

Bud Schindler stated that former Chair Tom McNerney had said that the Planning Commission had been rushed through the original UDC adoption process, resulting in an incomplete review by the commission.

Dennis Schultz suggested that the last several Power Point slides on the Omnibus would be worth viewing. Edel Sokol withdrew her motion.

Dennis Schultz moved that the Power Point presentation be limited to the last several slides concerning the Omnibus. Jim Hagen seconded the motion which carried unanimously.

Kevin Russell provided an abbreviated Power Point presentation. It listed the purposes of the UDC Omnibus. He outlined some of the issues that were being worked on, including cottage industries, nonconforming uses, signage, food and beverage stands, adding a plat alteration process, revising kennel standards, Section 7 land divisions, boundary line adjustments, SEPA thresholds, enforcement provisions, and eliminating the Appellant Hearing Examiner. Mr. Russell reviewed the process and timeline.

The commissioners moved on to discuss boundary line adjustments [BLAs]. Kyle Alm stated that there were relatively new Supreme Court case law addressing the issue. He handed out some map examples. He described the issues that a BLA could not be used to address. It could not create a new lot or relocate a lot through the process. It could not be used to increase density in a plat and it would not allow the creation of an unbuildable lot. He reviewed each of the example maps. Some would be allowed while others would not. Mr. Alm stated that the proposed amendments would encourage a proponent to do a SPAAD (Site Plan Approval Advance Determination).

There were no questions from the commissioners.

Kyle Alm moved on to the Plat Alteration proposal. He stated that it was fairly straightforward, similar to a subdivision or short plat. He stated that it was something the county currently did, but it was not in the code. This proposal would add language to address what was happening in current practice. He stated that there was no requirement for number of lots in a plat alteration.

In answer to Edel Sokol's question, Kyle Alm provided further explanation on one of the BLA example maps.

#### D. PUBLIC COMMENT

The Chair invited public comments.

Rich Holtman, Chimacum, stated that he had been told that their business was in violation. He described their traffic safety business on Rhody Drive. It was apparently outside of the commercial zone. He stated that he was present to find out what he could do in order to keep his business going.

Kevin Russell stated that the land was zoned Rural Residential. Some commissioners questioned why the business could not be a home business. Rich Holtman stated that they lived on the property. Mr. Russell read the home business standards. They did not allow for the materials that were currently stored outside. Edel Sokol thought the county had addressed the home business issue to some degree in the last Comp Plan amendment cycle. If that was the case, the UDC amendment had not yet occurred, however. Mr. Russell stated that a complaint had been made about Mr. Holtman's business and an enforcement procedure had been started. He reported that Mr. Holtman had telephoned the office and had been directed to at least come to the Planning Commission to voice his concern.

The commissioners discussed how they could help. Dennis Schultz suggested that Mr. Holtman needed to contact DCD to find out what he could do, and whether there was a way to classify his use as a home business. He thought the main issue was the outside storage of signs. Kevin Russell stated that Mr. Holtman should contact DCD to see how he could remedy whatever was in the enforcement letter. He was not sure Mr. Holtman could meet the home business standards. If he was able to make an application for his business, it would go through the Development Review process. The advice was for Mr. Holtman to look into applying for a home business or cottage industry permit.

Dennis Schultz stated that Mr. Holtman's issue was valuable because the commission was considering amendments to the UDC. He stated that the UDC Committee had reviewed the cottage industry section, but from what Mr. Holtman was saying, perhaps the committee should take a look at the home business section.

Kevin Russell stated that he had given Mr. Holtman his card so he could get him in touch with the Development Review division.

Richard Broders commented on the proposed BLA and plat alteration language. He stated that most of his comments would relate to needed clarifications. He referred to the proposed BLA language in Section (2)(e) which gave the administrator too much latitude, in his opinion. Mr. Broders stated that it was not clear in the plat alteration section that when you wanted to amend boundaries in short plats or long plats or binding site plans whether you could still do them under the BLA process. Kyle Alm stated that it would be a BLA.

Kyle Alm stated that the administrator had made a decision that the BLA process could be used to cross zoning district boundaries. He cited an example where Cenex had purchased a small amount of adjacent Rural

Residential land and been allowed to do a BLA to add it to their current land.

Dick Broders stated that his concern was that it be allowed between the three Rural Residential zones. He did not have a problem with not allowing BLAs across completely different zoning categories, such as between Rural Residential and commercial. He stated that the language in the BLA section (2)(e) would allow the administrator to deny a BLA if, in his opinion, it would provide a rationale for a future rezone. Mr. Broders referred to the sections in the BLA language [(2)(c)] about not creating a nonconforming lot, tract, or parcel or increase any of the nonconforming aspects of a lot or parcel as defined in the JCC. The language was similar to the language on the last page under "18.35.080 Review process and criteria" under (2)(g). He then read the definition of "Nonconforming lot", which indicated a lot that did not meet the minimum lot size as set forth in the code. Mr. Broders stated that his concern was that, in cases where there was a parcel smaller than five acres in a RR 1:5 zone, a person with a parcel smaller than five acres could not make the parcel even smaller. He did not know if that was the case today. Staff indicated that it was the intent of the policy. Mr. Broders stated that he knew of cases where there were two small parcels and a BLA was allowed which made one parcel a little bigger and the other a little smaller. Kyle Alm stated that there were exemptions for rectification of legal boundaries. Mr. Broders stated that another issue was that there really was not a minimum lot size in Jefferson County ordinance. He agreed that you could not create densities of less than 1:5. However, you could do a PRRD and create quite small lots and they would be conforming. But you could not make a 5-acre lot 4.5 acres. He questioned why there was that difference. He provided other examples. He thought the policy should be changed, especially since it would not change the number of parcels. He stated that the code only talked about densities, adding that densities and lot sizes were two very different things. He stated that he would argue that the ordinance was inconsistent because it talked about minimum lot sizes, yet there were no minimum lot sizes. He questioned why we could not take a 5-acre lot and make it 4.5 and take a half acre lot and make it one acre in order to make two really good lots.

Kevin Widell stated that he was the applicant for MLA05-53. He stated that he had been told at the joint meeting that he could bring some additional information to present. He handed out some additional material on his application.

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

#### **E. ADJOURNMENT**

The Chair stated that he would not be present at the next meeting.

The meeting was adjourned at 8:20 p.m.

#### **F. APPROVAL OF MINUTES**

These minutes were approved this \_\_\_\_\_ day of May, 2005.

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Allen Panasuk, Chair

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Cheryl Halvorson, Secretary