

JEFFERSON COUNTY PLANNING COMMISSION

MINUTES FOR JULY 20, 2005

- A. OPENING BUSINESS
- B. ELECTION OF OFFICERS
- C. DISCUSSION ON PRELIMINARY OMNIBUS PACKAGE OF UNIFIED DEVELOPMENT
CODE AMENDMENTS
- D. DISCUSSION ON COUNTY-WIDE PLANNING POLICY
- 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 Jim Hagen, Dennis Schultz, Edel Sokol, Bud Schindler, Mike Whittaker, and Bill Miller. Peter Downey arrived at 6:37 p.m. Phil Flynn was excused.

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

There was one member of the public present: Barbara Fisk.

The minutes for June 15, 2005, were approved as submitted.

B. ELECTION OF OFFICERS

Chair Allen Panasuk resigned his position as Chair of the Planning Commission and handed the gavel off to Vice Chair Jim Hagen who opened the meeting to nominations for the Chair's position. Jim Hagen was nominated for the position. There being no other nominations, Jim Hagen was unanimously elected (8-0-0) to the position of Chair of the Planning Commission.

Jim Hagen then opened the meeting to nominations for the position of Vice Chair. Bud Schindler was nominated. There being no other nominations, Bud Schindler was unanimously elected (8-0-0) to the position of Vice Chair of the Planning Commission.

Jim Hagen thanked Mr. Panasuk for his service as Chair to the commission.

Chairman Hagen invited staff updates.

Kyle Alm handed out a memo from Al Scalf outlining a realignment of duties in DCD. He provided information on other changes in DCD staffing.

Kyle Alm reported that the report from the Hearings Board on the UGA motion for reconsideration was expected in about a week.

Kyle Alm reported that he was working with a consultant on the SEPA analysis and staff report for the Comp Plan amendments with a public review draft of that report expected in August.

Jim Hagen asked for clarification about the realignment of the DCD staff, wondering if it amounted to a change in hierarchy. Kyle Alm provided further information, explaining that Al Scalf was still the Director. Dennis Schultz suggested that the Chair write a letter of congratulations to Stacie Hoskins on her new responsibilities. The commissioners agreed by consensus that it was a good idea. Mr. Hagen stated that he would write a letter on behalf of the Planning Commission.

C. DISCUSSION ON PRELIMINARY OMNIBUS PACKAGE OF UNIFIED DEVELOPMENT CODE AMENDMENTS

Dennis Schultz led the Planning Commission in a review of the revisions recommended by staff and the UDC Committee. He particularly reviewed the policy changes that were suggested.

Bud Schindler stated that he had noticed some typos and would provide that information to staff for correction.

The commissioners and staff discussed the noise provisions for mineral extraction and operations that occurred outside of normal operating hours. They discussed whether the public review draft should include the WAC reference only or whether it should include the WAC provisions themselves. The commissioners agreed that the WAC reference was sufficient. Otherwise, each time the WAC was revised, the UDC would have to be revised as well.

Bud Schindler commented on the format of the draft, stating that it was very difficult to follow. Dennis Schultz stated that the formal Jefferson County Code was formatted differently and was much easier to read and follow.

The commissioners discussed sign heights. Some commissioners supported the fifteen foot (15') sign height limit while others suggested a taller height standard. The commissioners agreed that they wanted public input on the sign issue. Edel Sokol suggested that she would like to see the sign issue raised to the business community so that the Planning Commission could get input on the issue from them. It was suggested that staff contact the Chamber of Commerce's. It was also suggested that the sign issue be emphasized in the advertising for the public hearing on the Omnibus.

The commissioners discussed whether to amend the suggested height limit of fifteen feet. Kyle Alm stated that the existing code was thirty-five feet (35'), the original proposal in the Omnibus was twenty-five feet (25'), and the Committee revised the proposal to fifteen feet (15').

Allen Panasuk moved that the sign height be at thirty-five feet (35') for the public review draft. Edel Sokol seconded the motion. There being no further discussion, the motion carried with seven in favor, one opposed, and no abstentions (7-1-0).

The commissioners discussed multi-tenant signs. It was noted that the sixty-four (64) square foot standard was the same as the current standard. Allen Panasuk suggested that, again, it was an issue the Planning Commission would like to have input on from the business community.

The commissioners and staff briefly discussed boundary line adjustments and continued their review of other sections of the Omnibus.

Dennis Schultz noted that the Committee recommended changing the application deadline for Comp Plan amendments from February 1 to March 1. The commissioners discussed whether other dates in the timeline would need to be amended as a consequence. It was pointed out that the draft included an extended date for adoption of the Final Docket, so the necessary adjustments in the timeline had been made.

The commissioners briefly discussed the issue of mini storages in the Hadlock-Irondale area and the BOCC's interim moratorium ordinance. They discussed how long the interim ordinance moratorium could continue.

Edel Sokol raised an issue with the timeline for nonconforming uses that were damaged or destroyed. She suggested allowing at least five years. It was noted that a proponent only had to apply within one year.

Edel Sokol moved that the provision be changed to five years. There was no second to the motion.

Edel Sokol stated that her concern was that in some circumstances (e.g., settling an estate), it may take longer than one year to settle, and a proponent would lose the opportunity to apply. Jim Hagen agreed that his concern was with the one-year-to-apply limitation. Bud Schindler suggested that there be an appeal procedure for those instances where there were extenuating circumstances.

Edel Sokol moved that provisions be added for an extension based upon extenuating circumstances (for the permit application deadline). They would appeal to the Director for an extension. Allen Panasuk seconded the motion.

Staff explained that the practical purpose of the motion would be to allow a proponent to ask for an extension of the application deadline from one year to a longer time based upon their extenuating circumstances. Then, after they applied, it would take a certain amount of time to get the actual permit. After the permit was issued, they would have two years to do their construction. An example given was a case where there was a fire and it took longer than one year to settle the insurance claim. Bud Schindler supported allowing extension of the construction time of two years from issuance of the permit. Peter Downey noted that building permits could be extended and were extended routinely. Dennis Schultz noted that the proposed provision said "substantially complete" within the two years.

The motion carried unanimously (8-0-0).

Jim Hagen referred to the review criteria the UDC Committee followed. The first one was that the changes be consistent with the Comprehensive Plan goals and policies. He thought it was important that, between now and the public hearing, the commissioners review the public review draft for consistency with the Comp Plan.

Bud Schindler stated that his concern was with instances where the Comp Plan was still regulatory in nature, citing cottage industry as an example. He stated that the Comp Plan should contain the policy and the UDC should contain the specific regulations to implement the policy. However, changing the Comp Plan was not an exercise the Planning Commission could undertake now.

The Chair invited public comments.

Barbara Fisk, Quilcene, stated that her concern was with the cottage industry issue. She referred to a problem with an auto repair business in her neighborhood. She did not understand why it took so long to get action on their complaint. She stated that she had provided written information on the issue and on the damage to their property. She stated that they had been in litigation for some time. She referred to other cottage industries in the area that did not create a nuisance in the neighborhood. She described the activities that had occurred by the auto repair business owner. She discussed the increase in traffic on their private road. She did not think that particular cottage industry should be allowed in that area. She thought the county needed to address cottage industries individually based on the impacts of the cottage industry proposed. She stated that they no longer owned the property, but she was still concerned because of the activities and the methods Mr. McNeeley used. She stated that she had been complaining for ten months and nothing had happened yet.

Jim Hagen suggested that Ms. Fisk contact the county Code Enforcement Officer. Barbara Fisk stated that she had done so. Mr. Hagen stated that, as a Planning Commission, they had to deal with the standards and development regulations for what a cottage industry was. He stated that he knew that traffic impact was one consideration. Number of employees was another. Mr. Hagen stated that an auto repair business per se might not be a bad idea, although it sounded like in this case the owner had abused the use.

Dennis Schultz stated that the Planning Commission really could not address Ms. Fisk's complaint issues. He explained that the Planning Commission's role was to define the performance standards and uses that could be allowed in the rural areas. He described the standards suggested in the Omnibus for an auto repair business, which came about because of the information received from Ms. Fisk. He stated that, unfortunately, the Planning Commission could not help the specific situation through the code.

Bud Schindler stated that the information from Ms. Fisk had been provided to the Planning Commission some time ago. He wondered whether the Planning Commission had any responsibility regarding the complaint. Kyle Alm responded that the Fisk material was distributed to the Planning Commission because of its consideration of the Omnibus and was intended for the commissioners to think about how the UDC could be improved to address such circumstances. He stated that staff was expecting Ms. Fisk to appear at an earlier meeting. Barbara Fisk stated that the previous meeting, at which she had intended to address the issue, had been cancelled. Mr. Alm stated that he could not address the status of the complaint.

Barbara Fisk stated that the Planning Commission, staff, and BOCC had all been provided with copies of the protest letters from themselves as well as from two other neighbors. She described the traffic on the road and the delivery trucks that went there daily.

Allen Panasuk suggested that Ms. Fisk make her complaint to the BOCC and to the Code Enforcement Officer. Otherwise, he advised her to consider private legal counsel.

Barbara Fisk stated that she was coming to the Planning Commission because it was considering the UDC Omnibus, including the cottage industry section, noting that auto repair was listed as a cottage industry. She wanted the Planning Commission to know what a neighborhood could be up against with such a business.

Barbara Fisk described a situation where her son-in-law wanted to do welding from his home as a side business. There was one protest and the county would not allow him to do it.

Dennis Schultz pointed out that the current county code prohibited auto repair businesses as a cottage industry. He cited the pertinent section and suggested that Ms. Fisk reference that to the BOCC and the Code Enforcement Officer.

Jim Hagen stated that the Planning Commission was considering adding auto repair businesses as a cottage industry as a means of addressing the issues Ms. Fisk was facing. The committee had considered Ms. Fisk's complaint when they were drafting the recommended revisions to the Omnibus. He offered the opinion that, from Ms. Fisk's description, the subject auto repair business

would still be out of compliance with the suggested provisions in the Omnibus.

Barbara Fisk thanked the Planning Commission for their time and the information she had gained.

Mike Whittaker referred to the definition for "Noise" and suggested going back to the original definition. He provided the definition of "noise" from the dictionary and read a section on noise from the WAC. He stated that the county had adopted state noise standards. He thought the suggested definition could be anything, including the Olympic Music Festival or a symphony or a motorcycle. He thought "noise" had a negative connotation. He thought what was proposed had a neutral connotation and could be any sound. He suggested going back to the original definition.

The commissioners discussed whether the issue was one of semantics or whether the definition related to noise that was a nuisance or whether it meant any noise. Bud Schindler suggested that the commission should consider how the word was used in the ordinance and whether it fit the definition. Kyle Alm stated that he would research whether the county had passed a noise ordinance and would get back to the Planning Commission. The commissioners agreed to leave the issue for a later discussion.

Jim Hagen entertained a motion to pass the UDC Omnibus on to the public review process.

Bud Schindler moved that the Planning Commission accept the UDC Omnibus as presented and amended and move it on for public review. Allen Panasuk seconded the motion, which carried unanimously (8-0-0).

D. DISCUSSION ON COUNTY-WIDE PLANNING POLICY

Bud Schindler stated that the topic was a tabled item from a previous Planning Commission meeting. It arose when the Planning Commission was provided a copy of proposed amendments to the County-wide Planning Policy [CWPP] that were proposed to the Growth Management Steering Committee [GMSC]. He stated that the commission had been informed that the CWPP was provided to the Planning Commission merely for informational purposes, and that the Planning Commission had no jurisdiction over them. He stated that the CWPP were threaded throughout the Comp Plan. The Planning Commission was responsible for the Comp Plan and the CWPP as they existed in that document, yet the commission was not responsible for the CWPP as they existed as a separate document. He stated that the original intent of the CWPP was as a foundation for the comprehensive plans of both the City and County. That fundamental intent had been completed. He agreed with CTED's opinion that we should have something to bridge across from the county to the city to regulate intergovernmental planning. He thought that should be in the Comp Plan and not in a separate document that was addressed one a quarter for two hours by the GMSC. He stated that was the basis of the white paper he had prepared. He proposed that we get away from the way it was done now and do it differently and in a manner that would be effective. He thought there should be something that regulated intergovernmental planning to make sure the jurisdictions were not doing things differently. He pointed out that the county Comp Plan called for consistency between the City and County. He asked whether that had ever been checked. He wondered what level of consistency would be appropriate. There was no process described for checking that consistency. He suggested that the Planning Commission have

something to do in the process to make sure the intergovernmental planning was appropriate between the City and County. He suggested that it be done the same way Mason County did it, which was through their Comp Plan. He thought the Planning Commission should review the CWPP to see if it was an appropriate policy and to see if there was an appropriate connection between the City and County for each policy.

Allen Panasuk asked about the hierarchy of the CWPP and the Comp Plan. Kyle Alm replied that the CWPP superceded the respective comprehensive plans. He read portions of the RCW pertaining to the CWPP and the required comp plan updates. He stated that we were required to re-adopt the entire Comp Plan. The City had to re-adopt their entire Comp Plan. That was the time to see whether or not we were consistent with the CWPP. When amendments were taken to the Comp Plan was when you checked for consistency with the CWPP. Hopefully, the government was always developing policies that were consistent with the overarching intergovernmental agreement. The appeal mechanism would allow for grounds of noncompliance with our own CWPP; it was not just compliance with the Act. He stated that, ultimately, it would be a Hearings Board or a court that would determine compliance or noncompliance.

Jim Hagen asked for clarification about the statements by CTED that .210, which dealt with establishment of the CWPP, dictated all future planning. He stated that he could not find that anywhere, even in Hearings Board cases. He referred to section .215. He offered the opinion that Jefferson County was not obligated to retain and update the CWPP because the county was not greater than 150,000 people.

Kyle Alm stated that our Deputy Prosecutor's opinion was that the CWPP were necessary. He stated that the CWPP could potentially be amended by the GMSC. He stated that if the Planning Commission wished to make recommendations to the BOCC about the CWPP, the Planning Commission could do so. It was within the Planning Commission's authority.

Jim Hagen stated that he was not talking about un-adopting the CWPP. He was talking about the process for updating and maintaining them. He referred to the 2004 update of the Comp Plan which was required by law. He wondered why there was no similar dictate that our CWPP were not mandatorily required to be reviewed and updated. He stated that the CWPP were adopted in 1992. He stated that the population demographics for the county showed that, just for the City, half the people who lived there in 2000 did not live there in 1995. The point was that the comprehensive plans were supposed to reflect current widely held values. He questioned how we could have a CWPP when, possibly, two-thirds of the people did not even live there at that time. He questioned what purpose the CWPP served if they had not been updated. As a student of GMA, he questioned where the prosecutor and CTED were drawing their conclusions from because he could not find it in the RCW.

Dennis Schultz stated that Mr. Alm was correct that the BOCC would follow the advice of the Prosecuting Attorney. He stated that, while we had the CWPP, he wondered if anyone knew what those policies were. He did not think they were that significant in relation to planning in this county because no one did anything with them. Jim Hagen stated that they were tremendously significant because they were used against the county in appeals. They were used by the City against the County to stymie anything the County wanted to do because it was a one-way process. He thought the City had veto power.

Kyle Alm stated that the CWPP were pretty general in nature. He provided some examples. He stated that the CWPP were adopted by the BOCC because they were a county-wide guidance document. If the county wished to change something in the CWPP against the City's wishes, the county could do so. He admitted that there was one line in the CWPP that said "the City and County shall agree". However, if the county wanted to take that out, the county could do so, although the City could appeal. He summarized that it was ultimately a legislative decision made by the BOCC. They [the BOCC] met with the GMSC to make those amendments when necessary. He stated that industrial land banks were another example of something that we would probably need to amend the CWPP for, so that we had direction in the CWPP with corresponding policy in the Comp Plan and subsequent development regulations for that designation.

Bud Schindler commented that it seemed that the Comp Plan was being used to update the CWPP. It appeared that the CWPP were being amended in order to be consistent with the Comp Plan. He thought that appeared to be backwards because the CWPP were originally intended as the framework to guide the Comp Plan. Now the Comp Plan was being used to update the CWPP. The function did not make sense. He stated that his suggestion had not been to get rid of the CWPP. His suggestion was that we re-identify those policies in the Comp Plan so that we could deal with them.

Mike Whittaker stated that the question was who would go through them and do it. Bud Schindler stated that was a second step. The first step was to get everyone to agree that the CWPP, in their current form, were non-functional and that they needed to be made functional so that we could do something with them. He thought that was a job that should be done. He thought there should be a side-by-side comparison of the CWPP and the Comp Plan, similar to the side-by-side comparison of the UDC and the Comp Plan, to see if there was consistency. Such a comparison should include the City's Comp Plan as well as the County's. There should be a level of consistency and the comp plans should provide a level of detail to implement the CWPP.

Edel Sokol moved that the Planning Commission form a committee to look into the CWPP issue further. There was no second.

Bud Schindler stated that the CWPP were provided to the Planning Commission for informational purposes only. There was no expectation of the Planning Commission doing anything with them. He stated that he wrote the white paper because he thought the CWPP were meaningful. But to make them meaningful, they should be in the Comp Plan where you could consider them, understand them, understand the consistency requirements between the City and County, and evaluate them.

Jim Hagen stated that the Planning Commission's recommendations were only advisory. He thought there was a bigger question. He stated that the whole idea of having the CWPP was for coordination and consistency between the City and County. However, there was no accountability that it was actually occurring. The only accountability was when appellants, a single individual, challenged it. Concerning the consistency issue, he cited an example of a policy in the Economic Development chapter of the county Comp Plan that said to partner with the EDC and other economic development entities and the City Comp Plan said to partner with the county and other entities. The CWPP said to partner with the City, County, and the EDC. Right now, that was not happening and it had not happened for years. On one hand we were bound to the CWPP. But on the other hand, when it needed to work for us, it was not

demanded to work for us the way it should. He stated that he could not say that there was an answer because, ultimately, it was something for the legislature at the state level to address. He thought there was some real worth in looking at the CWPP.

Peter Downey moved that the Planning Commission form an exploratory committee to look at the relationship between the CWPP and Comp Plan to determine if there was a way to coordinate the two documents in a manner that made sense. That committee would bring forward a recommendation to the full Planning Commission. Edel Sokol seconded the motion. There being no further discussion, the motion carried unanimously (8-0-0).

It was agreed that the Chair would appoint the committee at a later date.

E. ADJOURNMENT

The meeting was adjourned at 9:44 p.m.

F. APPROVAL OF MINUTES

These minutes were approved this _____ day of August, 2005.

Jim Hagen, Chair

Cheryl Halvorson, Secretary