

JEFFERSON COUNTY PLANNING COMMISSION

MINUTES FOR JANUARY 18, 2006

- A. OPENING BUSINESS
- B. POSSIBLE SUGGESTED AMENDMENTS FOR THE 2006 COMPREHENSIVE PLAN
AMENDMENT CYCLE
- C. ADJOURNMENT

A. OPENING BUSINESS

The regular meeting was called to order at the WSU Learning Center at 6:30 p.m. by Chair Jim Hagen. Planning Commission members present were Bud Schindler, Dennis Schultz, Mike Whittaker, Bill Miller, and Edel Sokol. Peter Downey arrived at 6:35 p.m. Phil Flynn was excused. Allen Panasuk was absent.

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

There was one member of the public present. No one signed the guest list.

The minutes for January 4, 2006, were approved as amended.

Bud Schindler referred to the portion of the January 4 minutes where it discussed the WRIA issue. He stated that the Planning Commission wished to be clear that it wished to have representatives on any and all WRIA planning groups in the county.

The Chair invited staff reports.

Kyle Alm reported that staff had moved back to their remodeled offices.

Kyle Alm reported that there had been a public hearing held over the last two days relating to proposed Port Ludlow development. He also reported on other staff activities, including staff attendance at the Hearings Board compliance hearing on the UGA to be held on February 7 and the UGA sewer kick-off meeting. Mr. Alm reported on the BOCC deliberations on the UDC Omnibus, with the BOCC approving three sections.

Brent Butler reported that a Settlement Agreement had been signed this date for the Washington Environmental Council vs. Jefferson County appeal relating to critical areas. The commissioners and staff discussed the timeline for updating the UDC in order to come into compliance. Edel Sokol raised the issue of the state taking action on the best available science [BAS] issue before the county could take action. She wondered whether the county was being asked to take a lead role on the issue before the state completed its work on BAS. Kyle Alm agreed, stating that it was a point that was well made by the county. He stated that Jefferson County had been grouped with other Central Puget Sound counties for our update which put us on the front edge for lawsuits and precedent setting because we were among the first for our update. Jim Hagen referred to a several page comment from Gretchen Lux of DOE concerning wetlands. He gathered from those comments that the state had several concerns about our analysis of BAS. He wondered whether the county was in sync with BAS, at least as far as DOE viewed it. Mr. Butler responded that parts of the Settlement Agreement contained specific references to manuals that provided guidance leading the county to adopting what was acknowledged as BAS. Mr. Hagen stated that the Planning Commission had spent a fair amount of time on the issue, and he hoped there would be an opportunity for public review.

Dennis Schultz referred to the portion of the January 4 minutes that discussed staff preparing placeholder Comp Plan amendments and asked about the status of that. Kyle Alm replied that staff had been too busy to prepare them, but noted that the BOCC action on the UDC Omnibus would change the submission deadline to March 1. Mr. Schultz asked about the proposed joint

workshop with the BOCC. Mr. Alm replied that it had tentatively been scheduled for March.

Staff and the commissioners discussed the Comp Plan amendment cycle and timeline and the amount of review that may be necessary. Kyle Alm stated that some of the suggestions the Planning Commission had made for amendments had merit, but probably required more work before being submitted in order to have a more complete package.

Bill Miller asked if the Planning Commission would be doing anything this year related to the UGA sewer under the professional services agreement. Kyle Alm stated that the kickoff meeting would go over some of the timelines and deliverables.

The Chair invited public comments.

Christina Pivarnik introduced herself to the new Planning Commissioners. She explained her role for the county as a public information consultant.

**B. POSSIBLE SUGGESTED AMENDMENTS FOR THE 2006 COMPREHENSIVE PLAN
AMENDMENT CYCLE**

Staff handed out a one-page document relating to transfer of development rights [TDRs]. Brent Butler reviewed the document. He reported that he had not yet done the research needed to do line-in, line-out amendments for the Comp Plan and UDC. Mr. Butler stated that the staff would look to the UDC Committee to help with the line-in, line-out work.

Peter Downey commented that a major issue would be determining the receiving areas for additional density. One suggestion was allowing receiving areas to be the rural village centers [RVCs] or the master planned resort [MPR]. Brent Butler responded that he was not sure that we could allow the RVCs to be receiving areas under the GMA. That would be a research issue. Bud Schindler commented that another possibility would be to allow a banking system for the TDRs. The commissioners and staff discussed examples of receiving and sending areas.

The commissioners supported incorporating the County-wide Planning Policy [CPP] into the Comp Plan. Bud Schindler supported submitting a placeholder amendment in order to discuss how to incorporate the CPP and whether reasonable amendments to the CPP were warranted. If everyone agreed to the details, then the CPP could be amended into the Comp Plan. If not, then they would not be. However, he thought there should be a chance to discuss the issue. He believed the current process was flawed. He stated that the current process was pre-Comp Plan; it was made as a pathway to developing the Comp Plan. Now that we had the Comp Plan, he thought we could integrate the CPP into the Comp Plan, keep their identity, and streamline the process so that we had a functioning process, rather than a non-functioning process.

Jim Hagen stated that the policies themselves were binding even though they were adopted several years before adoption of the Comp Plan. He stated that the Planning Commission could not change the policies. He pointed out that Policy 10 talked about a successor entity, so the commission may be able to change the way the CPP were administered. Kyle Alm thought the law also said that the CPP were to be used as guidance for development of the respective Comp Plans.

Bud Schindler stated that one of the biggest benefits of the CPP was the concept of inter-governmental control. He thought developing the process so that there was better inter-governmental control would result in better communication.

Jim Hagen asked what, specifically, would be included in a Comp Plan amendment application. Bud Schindler replied that he would draft something. He asked staff to prepare a placeholder amendment for the issue. Kyle Alm responded that staff would prefer to have something specific rather than a placeholder, because the county wanted to get away from placeholders. He noted that the county had been criticized in the past for not holding itself to the same standard as we held private citizens. He stated that we should have an amendment application that was specific enough for a public review, rather than developing the specifics as the amendment cycle progressed. He stated that the intention of a Comp Plan amendment was to provide a year for review rather than a year for preparing the amendment.

The discussion turned to the industrial land bank [ILB] issue and a perceived stalemate on the Growth Management Steering Committee [GMSC] about the issue and its relationship to the CPP. Jim Hagen stated that Appendix B of the Comp Plan contained a description of how the CPP applied to the policies of the Comp Plan. He expressed a concern about how the CPP were administered and carried out. Kyle Alm explained that he did not think a stalemate was really an option; it did not need to be a choice under the law. He thought it allowed the cities to appeal the end result. He thought that, officially, the CPP were adopted by the county. However, the county would try to work cooperatively and try to get consensus on it. Mr. Hagen stated that the CPP described that the GMSC was initially set up to incorporate those policies into the development of the initial plans; it did not describe the GMSC as a continuing entity and it did, in fact, mention a successor entity. Mr. Hagen stated that his question to staff, in the context of the amendment process, was what powers the Planning Commission had to stimulate a process that would possibly address something like a successor entity. He stated that inter-jurisdictional coordination was a major tenant of the GMA, but it did not appear that the city and county, through the GMSC, were even trying to discuss issues. He stated that, while there may be an impasse on the ILB issue, the GMSC was not meeting on any other inter-jurisdictional issues either.

Bud Schindler stated that the CPP were developed as a framework for the development of the Comp Plan. He stated that some of the CPP were in the Comp Plan word for word and some were in the Comp Plan more vaguely, but they were all already in the Comp Plan. Jim Hagen stated that they had to be identifiable in the Comp Plan because they were the result of a coordinated inter-governmental consultation. He pointed out that the CPP were referenced several times in the UGA appeal. He thought the CPP needed to be someplace in the Comp Plan as an intact whole.

Bud Schindler stated that, since a placeholder amendment was not possible, he did not think the committee could come up with a specific amendment application before March 1 as a line-in, line-out application. However, he thought we could come up with an executive summary explaining the essence of what the Planning Commission was proposing. Bill Miller commented that it may take considerable time to arrive at a specific proposal. He suggested that it may be more appropriate to spend the time to develop the specific line-in, line-out proposal and then present it as a Comp Plan amendment, even if it took a year.

The commissioners discussed how much time it would take to develop an amendment proposal. Some commissioners did not think it would take a lot of time. Dennis Schultz stated that the problem was that we had two documents, one of which had not been maintained in years, and we got into trouble because of it. He stated that we had a similar situation with the UDC and the JCC. Now that the UDC was being incorporated into the JCC, we could now "preach out of the same bible". We needed to do the same thing with the Comp Plan and CPP. Mr. Schultz stated that the RCW mentioned the CPP in two sections. One section indicated that they were effective only for development of the Comp Plan, while the other section indicated the CPP were to be ongoing. Jim Hagen stated that the courts interpreted it that the CPP were to be ongoing; that they were as valid today as they were in 1992. Mr. Schultz stated that there was nothing to prevent the county from modifying the CPP and putting them into the Comp Plan. Kyle Alm stated that, still, the CPP were subject to change by the GMSC, if they were so inclined. He stated that the Comp Plan wasn't under review by the GMSC; it was under review by the Planning Commission and BOCC. Mr. Schindler stated that there was nothing preventing the GMSC from discussing every item in the Comp Plan; they had the same ability with the Comp Plan as they had with the CPP. Mr. Schultz stated that he had talked with people who had done appeals, and they thought incorporating the CPP into the Comp Plan was a good idea. Mr. Schindler stated that Hearings Board cases indicated that the big counties had to maintain their CPP while the rural counties did not; they had the option. Mr. Hagen stated that CPP 10 contained a review and monitoring process that he thought was binding. He did not think the RCW section that indicated the CPP were optional absolved the county from the responsibility of maintaining the CPP or that we could abandon the original CPP. Mr. Alm stated that the Deputy Prosecutor had agreed with that opinion.

Peter Downey asked what staff would need in order to have a complete enough amendment application to incorporate the CPP this year. Kyle Alm stated that staff would prefer to have a full amendment package. Whether it would get to the Final Docket, he could not say because it was not staff's decision. He stated that the BOCC had indicated they did not want to accept placeholders. Mr. Alm stated that we could review the Comp Plan and identify the CPP. He thought there was still time to prepare a complete application, if not for this year, then for next year. Bud Schindler stated that he had "ear marked" places in the Comp Plan that referenced the CPP. Jim Hagen asked if Mr. Schindler had done the same for the city's Comp Plan. Mr. Schindler replied that he had not. Mr. Alm stated that all Comp Plans were to reference the CPP. Mr. Hagen asked, if there was a change to the CPP, whether the city and county each had to do a Comp Plan amendment in order to be consistent with the CPP change. Mr. Alm responded that it depended upon how it worked, timing, and the subject matter. For instance, the critical areas were specified in the RCW and there were update periods. He stated that the CPP were for the development and guidance of Comp Plans. To staff, that meant when we had amendments, we were supposed to check the CPP for consistency. That was part of what was in the growth management indicators and what was in the amendment cycle. He stated that everything in the Comp Plan should have some type of support from the CPP or at least not be opposed to the CPP goals.

Jim Hagen stated that he knew one of the contentions in the GMSC was the proposed language for the industrial land banks [ILBs]. The commissioners and staff discussed the ILB issue and the references to them in the county Comp Plan, although the CPP did not mention them. Mr. Hagen noted that the

city Comp Plan did not make reference to ILBs, although it did reference major industrial developments [MIDs]. Kyle Alm stated that the city Comp Plan only addressed land use within the city. Therefore, any type of ILB would be outside of a UGA. He stated that a MID would be outside of a UGA as well. He stated that we already had provisions for siting a MID in the county. He stated that the county had not had any interest shown for a MID. He stated that the reason the ILB issue came up now was because there was a 2007 deadline coming up. Edel Sokol stated that there needed to be the political will to do the ILBs, and she did not think the political will was there.

Jim Hagen stated that one of the things that came out of the conference last year was that the Lewis County representative said that, if we wanted to designate two ILB sites, we must be sure to have our CPP in order. The commissioners and staff discussed how to amend the CPP. Mr. Hagen stated that it had to originate with the GMSC or a successor entity. He thought amending the CPP was outside the Planning Commission's charge. Bud Schindler referred to CPP 4 on siting essential public facilities, which was word for word a policy in the Comp Plan. He asked whether changing the policy in the Comp Plan could not be done then, because it would not be consistent with the CPP any longer. Kyle Alm responded that what could happen was that we could change the Comp Plan policy, it could be appealed, and we could lose. Dennis Schultz stated that was the problem - having the CPP saying one thing and the Comp Plan another, which caught the county in the middle. He wondered why we bothered amending the Comp Plan, because they would appeal based on the CPP. Mr. Alm did not think our situation was quite that dire. Mr. Schultz stated that, because the CPP had not been updated in years, we would have the same problem year after year.

Edel Sokol raised an issue about the Hadlock/Irondale UGA in relation to the CPP. Kyle Alm responded that the CPP addressed forming a UGA in that area provided adequate capital facilities planning, especially for sewers, was done. He stated that the same CPP applied to the city. He stated that, when you opened up something like this, you wanted to be careful about exposure. He stated that CTED had advised that the entire Comp Plan was open for appeal when we did our 2004 update because that was the scope of the work. He thought that integrating the CPP into the Comp Plan raised some interesting questions. One was to what degree we were integrating them? Was it the whole Comp Plan or portions of it? How much of the Comp Plan did we really want to open back up again? What was the net effect of it?

The commissioners and staff discussed preparing a Comp Plan amendment on the CPP and how complete it should be. Kyle Alm agreed to work with Bud Schindler on a draft application. Mr. Schindler pointed out to the Planning Commission that integrating the CPP into the Comp Plan had been done in Mason County, although he did not necessarily agree with the way they had done it. He thought we could do it better.

The commissioners moved on to discuss submitting a Comp Plan amendment for a side-by-side comparison of the Comp Plan and UDC for consistency. Bud Schindler stated that he had prepared a list of inconsistencies in the Rural Residential section, but he had not reviewed other sections as yet. He stated that he had also found internal inconsistencies within the Comp Plan. Edel Sokol pointed out that the UDC implemented the Comp Plan and it could be amended at anytime. She suggested that the UDC should be amended and to leave the Comp Plan alone for now. Mr. Schindler stated that would not address the internal inconsistencies within the Comp Plan. He cited two

internal inconsistencies he had found in the Rural Residential section. He thought some inconsistencies presented policy issues that should be considered. Jim Hagen stated that a Comp Plan amendment, even as housekeeping should be specifically described, rather than just having a generic amendment saying we had found a bunch of inconsistencies and we were going to fix them. Mr. Schindler thought a complete side-by-side review of the two documents was at least a six month project.

Dennis Schultz suggested that it may be necessary to do the work of the review this year and prepare a specific amendment application for next year. He did not support doing it in bits and pieces, only using the few internal inconsistencies that Mr. Schindler had found so far. Jim Hagen supported putting the review on the Planning Commission's work plan for this year with the goal of preparing a specific Comp Plan amendment package for next year. Mr. Schultz stated that the Planning Commission would need to inform the BOCC that the Planning Commission was working on the project.

Dennis Schultz stated that another Planning Commission suggestion was to take the specific Rural Residential density criteria out of the Comp Plan and just have generalized descriptions for Residential, Forest, Ag, etc. in the Comp Plan. The Comp Plan map would just show those areas. The Rural Residential zones would only be Rural Residential rather than showing the specific RR 1:5, 1:10, 1:20 zones. The specific designation criteria and the density within the zoning, which should be clarified for the Rural Residential criteria, would be in the UDC. That would take a Rural Residential rezone out of the Comp Plan amendment cycle. The rezone could still go through the Planning Commission for the redesignation, but it would no longer tie into the annual cycle. He thought it would make a rezone go more quickly for the applicant and it would also relieve the load on staff. Peter Downey stated that, as far as a Comp Plan map was concerned, everything that was Rural Residential 1:5, 1:10, and 1:20 now would just be one color as "Rural Residential". That would necessitate a separate zoning map with the UDC depicting the individual RR zones. Mr. Schultz thought it was something the Planning Commission could work on this year to present next year as a complete Comp Plan amendment application. Kyle Alm agreed that it would be a big project that would take some time. Jim Hagen expressed concern about how to measure the cumulative impacts of the rezones on the county. Mr. Schultz did not think there would be much difference. He stated that if someone wanted to rezone from Forestry to Agriculture, it would still be a Comp Plan amendment. His suggestion would only affect rezones within Rural Residential. If someone wanted a rezone from RR 1:20 to RR 1:10, it would be a UDC amendment, but it would still go through the Planning Commission. Mr. Alm stated that it would be incumbent upon staff and the commission to come up with clear criteria and standards to determine which RR category a parcel would fit into. Mr. Schultz stated that should be done anyway. Mr. Schultz suggested that the Planning Commission put it on their work plan for this year. He stated that he would take it upon himself to do a preliminary look at what would have to be amended in the Comp Plan and UDC to accomplish the proposal.

Jim Hagen stated that we still had an interim ordinance for Forest Lands, but the county had never adopted a final Forest Lands ordinance as called for in the Comp Plan. He stated that we did not have a Forest Lands ordinance or criteria in our development regulations. He stated that he could not find a complete Interim Forest Lands ordinance. Kyle Alm pointed out that there was really no such thing as an "interim" ordinance. An ordinance by any other name had the full force and effect of the law. So, even if you called it an

"interim" ordinance, it was your ordinance. Mr. Hagen stated that the Comp Plan described a process for developing and adopting a "final" Forest Lands ordinance. He pointed out that, in fact, the staff report for the 2005 Barber site specific amendment, which had been so contentious, said that the only criteria available for use in evaluating the application was found in the Comp Plan narrative. Mr. Hagen stated that staff's reasoning for denying the rezone was because a prerequisite to granting a rezone was going through a process of establishing the criteria. It was like a Catch 22. He thought not having criteria in our development regulations went against the backbone of the GMA. Mr. Alm described his recollection of the Natural Resources element, which was divided into sections for Forestry, Mining, and Ag. The interim ordinance with its criteria was in the narrative. The goals and policies themselves did not contain the criteria. He admitted that the Comp Plan could be amended so that the criteria were clearer.

Jim Hagen stated that, just going by the Comp Plan goals, there remained to be done a process to establish the final ordinance. Kyle Alm responded that staff came to the conclusion that we had not done a final ordinance, but they also concluded that the "interim" ordinance was the ordinance. He stated that case decisions had been established before that said that you did not do interim ordinances. He agreed that it should be put into the goals and policies of the Comp Plan. Mr. Hagen stated that, more importantly, it should be in the development code. He stated that some of this was in line with what Mr. Schindler was talking about (the inconsistencies). He stated that one of the goals in the Forest Lands section talked about, concurrent with establishment of a final Forest Lands ordinance, a process where you got interested stakeholders together to deal with incompatible adjacent uses. He thought that was one of the contentious issues that came out of the whole legal process that resulted in the interim Forest Lands ordinance. Mr. Hagen stated that what he saw in preparing for the two 2005 forest lands amendments were a lot of things that had not been done and that were mandated in 1998. Mr. Alm stated that he could not say what had happened. It may have been determined that it was not necessary or that the interim ordinance was sufficient. Mr. Hagen stated that it had been a very contentious issue the first time, and he thought that if it was addressed now, it would be hugely contentious. He stated that the Comp Plan talked about including criteria from the GMA. He stated that the GMA criteria was much more liberal than the county's interim ordinance. He thought that it may be possible that, if the county opened up the forest lands issue, we could end up with a different result.

Jim Hagen stated that another contentious issue that had come up was the language in LUP 3.3.1, 2 and 3 about an established pattern. Going back to the Bailey rezone in 1999, the question became what the policy would be concerning several lots held in common ownership submitted as individual parcels, like Tala Point. The Hearings Board, while upholding the Bailey rezone, advised the county to address that issue. He stated that, sure enough, it came up again in 2005. Kyle Alm agreed that it was an interesting question. He stated that the code said to consider cumulative effects. Mr. Hagen stated that his point was that the policies were vague and ambiguous.

Jim Hagen stated that another issue that came up related to the Nelson-Monroe application and the question of similarly sized parcels and zoning designation versus parcel size. The staff recommendation was to consider an area wide redesignation that would consider the smaller parcels to the north, which could be carried out during the 2006 cycle, and include similar situations county-wide. He reported that the DCD Director had indicated that

staff would look at such similar situations and try to reconcile them. Kyle Alm stated that it was within the realm of possibility. He stated that, in reality, changing the zoning for those small parcels would not gain them anything. Mr. Hagen stated that it would alleviate the appearance of a spot zone, however, as happened with Nelson-Monroe.

Kyle Alm stated that another issue that recently came up was a split-zoned parcel split between Rural Residential and RVC commercial. The problem was that we did not have a legal description for those parcels describing the two zones. He stated that some parcels were split zoned on purpose for various reasons. Another issue was residential LAMIRDS.

Jim Hagen stated that the general description about what constituted similarly sized parcels and what to do about several lots under one ownership being submitted as one parcel were sure to come up again. To clarify that would reduce some of the confusion and work. Kyle Alm stated that was another larger discussion that would take time. He stated that we had talked about areas where we could add density. There was the TDR issue. He thought all of the issues were worth talking about. However, he thought we should focus on the logical conclusion of where all these policies would take us. He thought we should look at our priorities and decide which ones we wanted to focus on this year. Mr. Hagen agreed that the Planning Commission should focus on the priority issues. He thought the TDR issue was one big one. Mr. Alm stated that there were philosophical differences that needed to be discussed. He stated that the devil was always in the details.

Bud Schindler raised the issue of the WRIA groups. Dennis Schultz stated that the WRIA 17 planning group would meet on January 24. One of their agenda topics was new membership, which hopefully will address Planning Commission representation on WRIA 17.

Jim Hagen discussed which Comp Plan amendments the Planning Commission wanted to pursue this year. He stated that the TDRs was one certain issue. It was agreed that the side-by-side comparison not be a docket item this year but that it be a work item. It was agreed that the CPP could be tied into the side-by-side effort. Dennis Schultz stated that he would scope out the Rural Residential zoning issue and come back with his thoughts on how much work it would take. He thought it would take this year to prepare a specific amendment application.

Edel Sokol stated that it was important that the BOCC be informed about the work the Planning Commission was proposing and that they be supportive of it, or there was no point of the Planning Commission continuing the work. Kyle Alm suggested that the Planning Commission could bring the issues up at the joint workshop with the BOCC in March. Dennis Schultz agreed that the Planning Commission should present the issues to the BOCC, and explain why it needed to be done, and provide examples.

C. ADJOURNMENT

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

D. APPROVAL OF MINUTES

These minutes were approved this _____ day of February, 2006.

Jim Hagen, Chair

Cheryl Halvorson, Secretary