

JEFFERSON COUNTY PLANNING COMMISSION

MINUTES FOR APRIL 5, 2006

- A. OPENING BUSINESS
- B. PUBLIC HEARING - 2006 COMPREHENSIVE PLAN AMENDMENT PRELIMINARY DOCKET AND RECOMMENDATION FOR FINAL DOCKET
- 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 Dennis Schultz, Edel Sokol, Bud Schindler, Peter Downey, Mike Whittaker, Henry Werch, and JD Gallant. Bill Miller was excused.

DCD staff present were Josh Peters, Brent Butler, Rachel McHugh, and Cheryl Halvorson, secretary.

There were no members of the public present.

The minutes for March 1, 2006, were approved as submitted. The minutes for March 15, 2006, were approved as amended. There was a correction on Page 15 where Jim Hagen addressed the TDR issue. He had mis-spoken and said "sending areas" when he had actually meant to say "receiving areas". There was a correction on Page 17 concerning the amount of public notice for the Omnibus. There was an addition on Page 19 concerning a comment from Kyle Alm about how long the BOCC had the Omnibus package.

Jim Hagen introduced the two new Planning Commissioners, JD Gallant and Henry Werch, and welcomed them.

Josh Peters and some commissioners discussed Kyle Alm's decision to leave the department.

Josh Peters introduced Rachel McHugh and provided a brief summary of her education and experience. The commissioners welcomed her.

Bud Schindler asked about the assignment of planners in support of the department's and Planning Commission's workload. Josh Peters explained that Ms. McHugh would be the day-to-day contact on the UDC Omnibus. He thought Mr. Butler would take the lead on the UGA. Mr. Peters stated that he would probably take the lead on the critical areas issue. He stated that all LRP staff would take part in the Comp Plan amendments. Mr. Peters stated that the department had hired Michelle McConnell, whom the Planning Commission had not yet met, to coordinate the Shoreline Master Program update.

Dennis Schultz stated that Kyle Alm was to have delivered new copies of the Omnibus package to the UDC Committee. Bud Schindler stated that was one of four things Mr. Alm was to deliver to the committee. Josh Peters responded that he had a copy of the last committee minutes. If those requests were in the minutes, he would follow up on them. Mr. Peters stated that staff projected that the Planning Commission would take up the Omnibus on April 19. Staff only projected that the Planning Commission would consider the issue for one or two meetings.

Dennis Schultz stated that the letter he had provided to the full Planning Commission contained the annotations the UDC Committee had produced to that time. He stated that he would provide an electronic copy of it to staff.

Josh Peters explained how staff envisioned handling the UDC project. Staff would prepare documentation material from the UDC history and basically a cover memo from the Planning Commission to the BOCC. Then the Planning Commission could review it at the next meeting. It would then go to the BOCC, who would hold a public hearing and then move forward. He did not

envision the Planning Commission taking more than one or two meetings on the topic.

Dennis Schultz suggested that the next UDC Committee meeting, scheduled for April 11, could be useful as preparation time. Josh Peters agreed that it could be beneficial for Ms. McHugh in terms of learning the history of the Omnibus.

Dennis Schultz stated that one thing to keep in mind was that, after the Planning Commission finished its work on the Omnibus, staff added more revisions, which the Planning Commission never reviewed. Bud Schindler added that those revisions had no annotations to his knowledge. He stated that the issue was finding the point where the annotations that were done stopped and then going on from there. Basically, the letter from Dennis Schultz was the point where the Planning Commission's annotations stopped. Mr. Schindler suggested making the annotation notes in the margins of the Omnibus document, if that was possible in the Word program.

Jim Hagen asked if the Planning Commission was in a position to introduce new changes to the Omnibus and whether that would entail another public hearing before the Planning Commission. Bud Schindler thought the "changes" being discussed were the annotations for the revisions already suggested, not new changes to the UDC. Mr. Hagen stated that he wanted that clarification. Josh Peters stated that he did mean that, as a means of helping staff complete the Omnibus package and forward it to the BOCC. However, if there were relatively minor things that had been discussed before at public hearings and they were within the sideboards of the environmental review and the discussions that had occurred at the public hearings, then additional revisions may be alright. He stated that the Omnibus would be the subject of another public hearing, so if there was any doubt about additional amendments, it would be satisfied by the public hearing before the BOCC. Mr. Peters did not think it would be appropriate to introduce a whole new slate of amendments.

Bud Schindler wondered about how much the legal notice would cost and how extensive it would be. Josh Peters thought the cost of the ad would come out of the BOCC's budget.

Bud Schindler expressed concern about confusing people by using the JCC numbering system. He thought the ad should show the old UDC numbering. Josh Peters stated that staff had prepared a conversion chart for the UDC to JCC numbering. He thought it would be useful to the public to post the conversion chart on the web site. Mr. Peters explained that the UDC had been a part of the JCC for a long time as Title 18. He stated that staff had decided that we would now start using the JCC since we were using the code publishing company anyway.

In response to Edel Sokol's question, Josh Peters explained the purposes of the BPAP [Building Permit Advisory Panel] and the LUPEDAP [Land Use Planning and Economic Development Advisory Panel] groups. He stated that the county used the LUPEDAP to gain feedback on the Omnibus before it came to the Planning Commission. Ms. Sokol stated that the Omnibus outreach had been going on since 2003.

Jim Hagen suggested that the UDC Committee meet on April 11, even though all of the material may not be ready. It was agreed that it may be a good opportunity for Ms. McHugh to ask questions.

Jim Hagen and Josh Peters discussed some of the UDC changes, particularly ones in the Definitions that the BOCC apparently had concerns about.

Dennis Schultz asked for clean copies of the Omnibus package for the UDC Committee.

Bud Schindler wondered whether the poor communication that had been experienced with the Omnibus would be something that would occur in the future. He thought there was a frustration level for some Planning Commissioners about the difficulty in the communication, or lack of communication. He felt the BOCC had an adequate amount of time to ask questions of the staff and/or Planning Commission, but they had not until they came to the point of sending it back to the Planning Commission. Josh Peters responded that, obviously, we did not want a similar circumstance to occur. He stated that he had written a note about facilitating better communication. He thought that if it took actually scheduling some time before the BOCC on the topic, staff was willing to do so. Mr. Schindler suggested that a critique of the process could be constructive and possibly we could arrive at some solutions. He stated that the Omnibus had taken a big time and money investment, and the difficulties we had experienced towards the end of the process was not a good use of the county's time or money.

Jim Hagen stated that in the past the Planning Commission had held a joint workshop with the BOCC on general issues. That could be a forum where the two entities could work out a solution. He suggested that a joint meeting with the BOCC in their chambers might be constructive. Mr. Hagen stated that the list of work projects for LRP was substantial, and to have to go back and revisit or continue work on previous projects created more difficulties for staff. Josh Peters stated that one way was to improve communication from the Planning Commission to the BOCC. He stated that it was pretty good now, but he thought we could do more and outlined some other things we could do. He stated that perhaps we needed to create a mechanism for the BOCC to communicate to the Planning Commission more directly, other than their meeting minutes. Mr. Peters thought that scheduling a joint workshop once a quarter or so may be helpful. He suggested that if the Planning Commission wanted to write a letter to the BOCC with some suggestions, it would be helpful. Mr. Hagen thought staff's proposal to expedite the Omnibus remand to the Planning Commission was a good tactic to try to wrap up the project so the commission could move on to the rest of its work program.

Bud Schindler stated that his fear was that the Planning Commission would do the additional work on the Omnibus, but the BOCC would still feel it was not enough. Again, it was a matter of communication. He was concerned that the Planning Commission be able to come up with a product that was acceptable to the BOCC.

**B. PUBLIC HEARING - 2006 COMPREHENSIVE PLAN AMENDMENT PRELIMINARY  
DOCKET AND RECOMMENDATION FOR FINAL DOCKET**

Jim Hagen opened the public hearing for the two suggested Comp Plan Amendments on the Preliminary Docket (CPA06-78 submitted by Dennis Schultz and CPA06-86 submitted by Jefferson County DCD). Since there were no members of the public present to comment on the two suggested amendments, he then closed the public hearing and opened the meeting to deliberations.

Josh Peters provided an outline of the Comp Plan amendments on the Preliminary Docket, with five site specific and two suggested amendments. He stated that the Planning Commission recommendation at this time was whether or not to docket the two suggested amendments. If the BOCC agreed with the recommendation, they could adopt it and finalize the docket. If the BOCC did not agree, they would hold a public hearing before finalizing the docket. Mr. Peters stated that the Planning Commission could recommend to narrow the scope of either of the suggested amendments, similar to what occurred last year.

Dennis Schultz explained that **MLA06-78** suggested taking applications for a change in zoning density for a parcel out of the Comp Plan amendment cycle and make it a UDC process. In effect, the Comp Plan would be changed to define what the densities were but the map that accompanied the Comp Plan would only reflect the general type of zoning. If someone wanted to change from one type of zoning to another (e.g., from Agriculture to Rural Residential), it would be a Comp Plan amendment. If someone wanted to change from one Rural Residential density to another, for example, it would be a UDC amendment. He stated that under the current process, it could take up to three years before a property owner got a final answer. He thought that was unacceptable. The Comp Plan amendment process also put everyone (the staff, Planning Commission and BOCC) on a strict schedule. Now, October and November were very busy months for the Planning Commission and staff and November and December were very busy months for the BOCC and staff. This suggestion would take those changes out of that cycle. They would basically go through the same steps as they did now, except that it would not be tied to the Comp Plan amendment cycle, which should speed up the process for the public. He pointed out that the UDC could be changed anytime throughout the year, which could put such amendments into a period when the Planning Commission and staff was not so busy with Comp Plan amendments. Mr. Schultz explained what changes would be required for both the Comp Plan and UDC, which was basically a cutting and pasting exercise. Also, the current Comp Plan map would be incorporated into the UDC with a more generalized map being in the Comp Plan.

Edel Sokol stated that the Comp Plan was the vision statement for the county. It was not supposed to be the code, but she thought it was still full of code language that should be removed to the UDC.

The commissioners agreed to hear a presentation on the other suggested amendment before getting into the discussion phase of deliberations. Jim Hagen expressed the opinion that the two amendments were related in some ways. Dennis Schultz expressed the opinion that MLA06-86 was a much bigger project and may take a couple of years to complete.

Josh Peters stated that there were two distinct components that were related in **MLA06-86**, although they could be separated if the Planning Commission and BOCC wanted. One component was to introduce additional language in the Comp Plan for a TDR [Transfer of Development Rights] program and would complement language that was already there. It would add language about formulating a program. Later, the actual program details would be worked out. In his discussion with staff, he thought a lot of details were being discussed now. His advice now was to look at the broader picture. He stated that the original idea was related specifically to the problem we had about the Rural Residential density language in the Comp Plan. That was why staff chose to put the two topics together in one suggested amendment. In retrospect, perhaps it would have been better to suggest two separate amendments. Mr.

Peters stated that the second part of the suggested amendment was proposed language to try to fix and clarify what the Rural Residential criteria was designed to say. Staff wanted that discussion to happen this year. It had clearly been an issue in the past, including last year. Obviously, if people were arguing about what the criteria meant, there must be a problem with the way the language was written.

Josh Peters explained the connection between a potential TDR program and trying to fix the Rural Residential criteria. He stated that nearly every year we had people who wanted to change from RR 1:20 to RR 1:10 or RR 1:5. It was uncertain for the applicant because it was at the legislative prerogative of the BOCC and it was time consuming and costly. The original idea for setting up a modest TDR program to begin with in this county was that you would not need to do a site-specific Comp Plan amendment if you wanted to get more density on your property. You could buy a development right from someone else instead. He stated that there were plats in this county that probably should not be platted to that density. He cited examples of such plats. So we had some areas that, from a planning standpoint, it was not a good idea to develop out to that density. There could be a community benefit to letting the owners of those high density plats sell some of those development rights to someone who wanted to increase their density. It was a market based solution that was a "no net gain" in terms of number of lots in the county. It would be a private transaction between individuals instead of going through a Comp Plan amendment process. That was the original intention for starting a modest TDR program.

Josh Peters reviewed the staff report and recommendation. He acknowledged that each of the proposals required work this year and each implied future work. He stated that staff's recommendation was to docket both suggested amendments.

Jim Hagen suggested that the commission start the discussion with **MLA06-86** first because he thought there would be a benefit to a subsequent discussion on MLA06-78.

Dennis Schultz suggested that the TDR Committee be the committee for both amendments since they were both related to some extent. The commissioners were not opposed to the idea.

Jim Hagen stated that at the February 15 meeting, when the Planning Commission drafted its work matrix, he had agreed to take on drafting a suggested amendment addressing the LNP 3.3 criteria. He explained his reasoning for not doing so. He stated that, while it was identified as a problem, as he looked into it more, he began to wonder why it was a problem. One of our main compliance strategies was guidance from past Hearings Board decisions. He pointed out that the Bailey decision, generated from the 1999 cycle, said that the county was well within its rights to consider surrounding densities. There was also language in Goal 3.0 that referenced surrounding land use. Then there was Table 3.2 that described a summary of the different land use designations. It talked about "located in areas" of similar development for all of the Rural Residential criteria. So there was some clarification already in the Comp Plan. He stated that there was direction there, but it still provided some flexibility to take each site specific circumstance as it came. He questioned the necessity for it [the amendment] and what problem it was in response to. He reviewed the number of Rural Residential site-specific amendments received by the county since adoption of the Comp Plan in 1998. There were a total of fifteen. He stated

that the staff reports indicated that there was not that great a cumulative impact because the parcels were geographically separated. He stated that the main fear or concern was that granting these amendments would trigger pressure to convert more property. So he started to look at this pressure. He stated that the county had roughly 90,000 acres of land zoned Rural Residential. Not all of that was developable due to rights-of-way or critical areas, etc. He stated that the Hearings Board made reference to 62,000 acres, so that was perhaps more accurate for a developable figure. He stated that the fifteen site-specific amendments we had so far represented 777 acres. Therefore, we were really talking about approximately one percent (1%) of our RR land since 1998. He clarified that not all of the fifteen site-specifics were RR 1:20 to RR 1:5. If you considered the county as a whole, we had roughly 560,000 acres of land, not counting the National Park. Using the 777 acres, you were talking about 1.2% of the developable RR acreage. He stated that he was looking at it from the standpoint of the "pressure to convert" and how it affected our balance of Rural Residential densities, which was a main requirement of the GMA. One of the concerns was that the pressure to convert could erode the goals and policies of the Comp Plan. But when he saw a success rate of basically 99.99% [when compared to the total acreage in the county] in maintaining the intent of the Plan, he would argue that the Comp Plan was really working extraordinarily well.

Peter Downey stated that his point with the whole thing was that the intent was not to change any of the regulatory policy or review per se, but to decrease the administrative burden. He thought that was what should be kept in mind. The intent was not that it would come under any less scrutiny, but to make it administratively more streamlined and a simpler process to get through for the applicant. He would hate to see the county come up with a rule that would essentially "rubber stamp" everything that came in. He did not think that was the intent. The intent was to give the same amount of review but to do it in an administrative fashion that was much more streamlined.

Dennis Schultz commented that some of the density changes that had been requested made sense, in his opinion, and probably should have been zoned that way to begin with. Also, he thought the cost for a person to apply would be pretty well fixed. However, if you tied it to forcing them to buy a TDR, you would be creating a market driven concept where it may cost them more to change their density. It may not be a bad thing in some cases, but it may not be the right thing for those people whose property should have been zoned differently to begin with.

Peter Downey thought it was two different issues. One was the change in the code to change the RR zoning from one to another. That change would make it more of an administrative fix as opposed to a Comp Plan amendment.

Josh Peters stated that there appeared to be confusion between the two proposals. He stated that Mr. Hagen was talking about the staff proposal [MLA06-86] whereas Mr. Downey was talking about the Rural Residential proposal [MLA06-78].

Jim Hagen agreed that he was talking about the staff proposal. He referred to the sections addressing the LNP 3.3 issue. He raised another issue concerning multiple parcels, stating that there were differing viewpoints on how it should be handled. He stated that the court ruled that it was appropriate in the Bailey case to consider the surrounding densities. Josh Peters stated that his take on the court decision was that the court found

that the county was within its legislative prerogative, which was different from the court saying it was the right way to do it. He stated that it was still a question in staff's mind, and it had been stated on the record by the BOCC, including those who made the Bailey decision, as well as the Planning Commission, that it was still confusing. He stated that we were still not sure how to interpret our own policies. Mr. Hagen stated that the Hearings Board had indicated that it was not in direct violation of the GMA. Mr. Peters responded that, while he agreed, Mr. Hagen had said in the past that we should not be looking to the Hearings Board to tell us how to do certain things. He thought this issue fell under the same category. Just because they said it was okay for the county to interpret it that way, it still left the question of a lack of clarity about how to interpret that policy. He stated that his opinion of the associated goal about surrounding land uses was that the intent was *land uses*, as in whether it was okay to put Resource Lands next to Rural Residential, versus differing residential densities. Mr. Hagen referred to Table 3.2 again, saying that the summary did talk about areas, although he acknowledged that it was not policy.

Jim Hagen referred to an example of multiple parcels in a single ownership produced as a single application. He stated that he saw some things that were in common [with Bailey]. They both had historical ownership. They were both fairly close to populated areas, whether that be a UGA, RVC, or MPR. The idea was that if we allowed the up-zone, it would be in fairly close proximity to services. He thought that one possible middle ground for accepting applications like that would be to stipulate criteria requiring historical ownership and proximity to an area of higher density. Josh Peters responded that the criteria did not preclude the idea of rezoning the entire area of land being discussed. What it said was that it was appropriate to consider each individual parcel as well. He thought they used that process with the 2005 OPG application. He stated that the applicant's attorney had said that the county was not allowed to look at the individual parcels only by virtue of the fact that it was made as one application. He wondered what would happen if one ownership applied for 1,000 parcels. He thought it was equally absurd to say that you cannot look at a part of the overall property and say it was appropriate in one area but not in another.

Jim Hagen and Josh Peters discussed the proposed language with Mr. Hagen expressing the opinion that the new language was still ambiguous. Mr. Peters stated that the discussion during the review process could address the language issue. He thought that not docketing it simply because of the language issue at this point, when it was just a proposal, would be a mistake in the sense that we would still be left with the language that was up for debate. Mr. Peters stated that applicants were searching for answers as well concerning the interpretation. He stated that flexibility was one thing, but the issue was not about flexibility; it was about building in appropriate flexibility to actually know what the bounds were. It was flexible now only because it was so vague no one could determine what it was supposed to mean. Peter Downey stated that by docketing it to the Final Docket, it would allow us to create clear language. Mr. Hagen stated that if the Planning Commission recommended not docketing the zoning language, it would mean the BOCC would need to hold a public hearing if they wanted to include it on the Final Docket.

Henry Werch stated that he thought it was important to consider the two components of MLA06-86 separately because it should be couched in language that made it easy for the public to understand. He stated that he had heard a lot of discussion about no one understanding what it said, so we should

assure that whatever came out of the process was understandable. He stated that he would be more comfortable dealing with the two components separately. Josh Peters explained that it was possible to recommend docketing one component and not the other.

Bud Schindler stated that the TDR Committee had developed line-in, line-out language for the TDR portion of the amendment proposal. He stated that he did not see such a proposal for the zoning language. He was confused about whether there was proposed line-in, line-out language for the zoning component. Josh Peters responded that staff did propose language. Jim Hagen pointed out the pertinent section of the suggested amendment (Goal 20.0 with the policies beginning at Policy 20.5). Mr. Peters stated that the policies under Goal 20.0 were specifically derived by staff. To clarify, he stated that the two components proposed in MLA06-86 were being proposed by DCD staff. He acknowledged that the TDR language was co-authored by staff and the TDR Committee.

Dennis Schultz stated that some things proposed in 20.5 could pertain to his proposal [MLA06-78] by defining it better. He thought it could be part of his proposal. He supported going ahead with the amendment because it was needed.

Peter Downey stated that one issue he had with the TDRs, in general, was that we have designated receiving areas, whether it was UGAs or whatever. He did not think you should be able to take any lot and say it would be a receiving site and transfer development from somewhere else to it and increase the density in that location. He thought it could subvert the whole process of our zoning mechanism. He stated that he would be a lot more comfortable if we designated receiving areas in the urban areas where the increased density could be better accommodated. He would be less comfortable allowing any lot in the county to have the increased density.

Henry Werch agreed that it would help the TDR process, but questioned why you would bother with the TDR process if you were identifying the areas that were suitable for higher density and the areas that were suitable as sending sites. Peter Downey responded that it would allow some flexibility to be able to address some of the needs for protection of resources and provide a monetary base for doing it. Also, it would provide the ability to increase density in areas that could handle it without having to go through as formal a process as we had now. Mr. Werch stated that he endorsed those objectives, but he was not sure he understood how the TDR process would accomplish more of what we wanted to accomplish without tying it to a limited scope of what might be site specific areas. Dennis Schultz stated that you could define areas as receiving areas. But the problem was defining sending areas, which in effect would take away development rights from those people. Mr. Downey stated that was not his intent. Mr. Schultz stated that, under a TDR program, those people would have the option of selling their development rights.

Peter Downey provided a real world example of a fairly large farm and the current owner would like to see that farm preserved but could not afford to leave it the way it was because of market pressures, etc. He would have the ability to develop something. Instead, with a TDR program, he could sell those development rights and get a monetary base from it that he would not have otherwise, and it would protect that farm in perpetuity. That was the farmer's decision to do that. Henry Werch asked if that was good planning if, in the future, that farm ended up being an island in the middle of a more

densely developed area. Mr. Downey replied that it was if that was the farmer's intent for his farm. Bud Schindler offered the idea that a future owner of that farm could purchase development rights to bring it back to a higher density. Mr. Downey responded that was a problem he had. If we said we wanted to preserve some of the rural characteristics, the farming characteristics, in the county and we said it was appropriate to designate such areas as sending areas for TDRs, then we should not allow someone in the future to come back and purchase development rights and develop a higher density development. Mr. Schindler stated that what Mr. Downey was saying was that you could only transfer your development rights once. Dennis Schultz stated that selling the development rights would be something like a conservation easement.

Dennis Schultz stated that those were the kinds of issues that needed to be worked out on the TDR program and there were a lot of such issues. Josh Peters agreed, stating that they were examples of details that should be discussed during the process. He stated that there was already language in the Comp Plan about a TDR program, so we could probably start a TDR program without any amendments to the Comp Plan. He stated that the proposed amendment language was intended to start the conversation and to buttress what was already in the Plan. He stated that someone who had a 25-acre parcel in a RR 1:20 zone who wanted to build one or two additional houses could purchase the additional development rights to do that, provided they could not increase their density beyond what would be allowed under the code under our most dense rural designation, which would be RR 1:5, with a PRRD which might give you a density bonus. So, instead of applying for a rezone to RR 1:5, the property owner could simply purchase the additional development rights to build five houses from that farmer. There would be no net gain in number of lots in terms of the county preserving a variety of rural densities.

Dennis Schultz asked if there would be a public process for someone doing such a process so that neighbors could register opposition if they so desired. Josh Peters replied that there would definitely be a public process. He described how it would work vis a vis this general amendment proposal. Jim Hagen stated that he saw a shift in the TDR program from when the discussion first started. It now appeared to allow Rural to Rural transfers whereas at first we had discussed selling development rights in highly valued areas, such as critical habitat, and send them to dense areas where you wanted to incur growth. Mr. Peters stated that the Rural to Rural idea was introduced as a possibility. The language did not say specifically that the TDRs must go to urban areas. Mr. Hagen stated that another selling point of a TDR program was that it would be voluntary. However, 20.7 said that one method that should be explored was to condition a request for increased Rural Residential density on a TDR. To him, to "condition" meant that you had to do that. Mr. Peters responded that would be one way to accomplish that and it would be a community benefit. He stated that you would actually go through a rezone process, but you would condition the rezone on purchasing the rights from somewhere else. Mr. Peters stated that the idea of a community benefit actually came up in 2005 during the discussions of the OPG amendments. He provided an example of OPG forest land of say 1,000 acres. Even though it would be zoned a 1:80, it was still development rights. OPG may suggest moving those development rights from the forest land to another area they owned. It would simply move the development rights from one area to another without having such a laborious discussion about whether there was a community benefit or not, or all the things that were talked about during the OPG amendment deliberations. Another

possibility staff had thought about since March 1 was that perhaps it would be more appropriate to leave the option open for doing rezones using a public process to change the zoning map, which would allow for an appeal to the Hearings Board. The other option would not change the zoning; it would simply change the lot configurations from one area to another. A set of criteria would have to be established, which would go through a public process and become part of the development code.

Dennis Schultz stated that his concern was that process would take away the protection of someone who bought property and all of a sudden his neighbor purchased development rights and built twenty houses next door. Josh Peters wondered what the difference would be if someone in an area of 1:20's wanted a rezone to 1:5. The only difference from a community benefit standpoint was that the development rights might be moved from someplace where it might not be a good place to have a plat but that was platted prior to the GMA. Again, a condition would be that you would not be allowed to get a density that was higher than what you would normally be allowed under our most dense Rural Residential density, which was 1:5. Mr. Schultz stated that under the current criteria, in a block of RR 1:20's, someone who wanted to rezone to RR 1:5 probably would not be allowed. Mr. Schultz stated that now we were saying that RR 1:5 should have RR 1:5 around it. Mr. Peters countered that his perspective was that the language was not clear enough in the Comp Plan or strong enough to prevent that. He stated that when staff introduced the 50% guideline, staff was ridiculed for even trying to introduce something quasi-objective as a guideline. He stated that there was no real guideline. The "established pattern" criterion was open to debate and we questioned how big an area should be considered. It was completely flexible and was really the prerogative of the BOCC. There was no clear way you could even deny something because you could always justify it, at least the way it's been interpreted.

Henry Werch stated that staff had said that there was nothing in the Comp Plan that would prevent something. He asked if the Comp Plan was a document that allowed and permitted things. He thought the Comp Plan was just a document that suggested direction and guidelines. Josh Peters replied that, in terms of guidance for reviewing rezones, the Comp Plan contained none. If you looked at it closely, the criteria for our land use designations were talked about as it was established for its first application countywide for the 1998 Comp Plan. He stated that every time we had a rezone application, we had to look at the criteria. He stated that Mr. Werch was right in that the code contained most of it, but the code also had language that in general referred back to the Comp Plan to see if it was consistent with the Plan. So we had to go back and look at the criteria. He stated that the Plan did have guidance, policy language that said to maintain a variety of rural densities. He stated that there was no agreement on how the criteria should be applied to any given parcel. He stated that someone could make the argument that every parcel should be RR 1:5.

Jim Hagen stated that he thought there were guidelines and he did not think that would succeed. He stated the opinion that it was not a matter that the language was not clear; it was that there were different interpretations of it. He stated that there were different interpretations of the First Amendment. That was why we had a Supreme Court. He stated that you would never draft anything that would absolutely be solid. He stated that his point was to question whether there was really a problem. He thought we had created a problem. He thought the discussion last year and tonight had to do with the future direction of the county and it was manifested in some of

these requests. They were not all just summarily approved. He stated that the question was what we were trying to do. He stated that we were trying to preserve the integrity of the GMA and the goals and policies of our Comp Plan. When you really looked at the area we were talking about, it was less than one tenth of one percent. He thought it was impossible to write absolutely ironclad language. He thought the criteria in LNP 3.3 was just one component of a number of factors that should be considered about whether a parcel was suitable for a particular density.

Mike Whittaker thought we should be working for the people who owned the property and paid the taxes. He stated that we had to be prudent about land. But at the same time it seemed like we were putting on a lot of restrictions that prevented people from using their land.

Peter Downey moved that the Planning Commission recommend putting MLA06-86 on the Final Docket. Dennis Schultz seconded the motion.

Dennis Schultz stated that putting the amendment on the Final Docket did not mean that the Planning Commission could not come back later in the year and say it was a dead issue or it was something the Planning Commission could not solve. It just meant that the commission could work on the issue during the year.

Jim Hagen asked how much latitude the Planning Commission would have to change the language as we progressed. Josh Peters stated that the commission could change the language as long as the basic idea was the same. He described the potential process. Under the process, it was possible that the BOCC could get two proposals, one from staff and another from the Planning Commission. That had been done in the past.

Edel Sokol stated that it would be important to have public input on it. Josh Peters stated that the only way to get public input was to docket it.

Henry Werch stated that, in his experience, it was extremely important to have public input. However, it was important that it [the proposal] be presented in such a way that the public could comprehend it, thus allowing them to provide better input. He thought the way it was presented now was so complex, and in some cases written in a difficult style, that it was very difficult for the public to understand. If part of the role of the Planning Commission was to word things so that it was more understandable, he would be glad to spend time doing that. While he thought there was good stuff in the amendment, he would like to see a process where what we offered to the public to review was something they could comprehend more easily than the current form. Dennis Schultz stated that it was something that the committee could work on.

Jim Hagen stated that, as staff had said, there was already language in the Comp Plan that was sufficient to begin a TDR program. He thought that in a perfect world, we would have accompanying code language. He thought that was an important element. Edel Sokol commented that the Planning Commission could reject the proposal later in the process. Dennis Schultz offered the opinion that this was a starting point. He thought there may be two or three parts to the whole idea. It may take one or two years to develop a program that could then be put into the code. He thought that, as the Planning Commission went through the review process, it may be that the commission would decide that it was an issue the commission could not resolve.

Henry Werch stated that a question we should consider was whether it was an appropriate exercise to undertake. Peter Downey responded that the Planning Commission had already done that exercise. Bud Schindler stated that the TDR issue had a priority of 3 with a controversy level of 1 on the table the commission had created in February. Jim Hagen stated that one thing that came out in the TDR Committee meetings was that we already had pretty strong regulatory protections to protect a lot of these areas. In terms of staff resources and time, he questioned whether it should be a priority. He thought Mr. Whittaker made a valid point. In an era when landowners were particularly getting squeezed and when we looked at the degree of preservation of our land use policies and what we would get out of this, he thought the landowners were getting caught in the middle.

The question was called for. The motion to recommend docketing MLA06-86 to the Final Docket carried with five in favor and three opposed [5-3-0].

The commissioners moved on to discuss **MLA06-78**.

Cheryl Halvorson asked about Forest Land zoning as it related to this proposed amendment, noting that most of the discussion centered on Rural Residential zoning. She noted that there were three forest zones - Commercial Forest, Rural Forest, and Inholding Forest. She asked if the intent of this proposal was to only address Rural Residential districts or if it was to apply to all zoning districts. Dennis Schultz responded that the reason he did not include the Forest Lands was that they were coded differently (CF and RF), whereas the Rural Residential districts were all RR. Ms. Halvorson clarified that the intent would be if someone wanted to change the CF land to RF, they would need to apply for a Comp Plan amendment. Mr. Schultz replied that was correct. Ms. Halvorson stated that she just wanted the commission to be aware and clarify the intent of the amendment, whether it was just for the RR districts or for all districts. Some commissioners thought the intent was only for the Rural Residential districts. Ms. Halvorson pointed out that if it applied to the forest land districts, the forest land owners could apply for conversion from CF to RF and double their density, which would be beneficial when considering a TDR program.

Josh Peters stated that his interpretation of the amendment proposal was that the Comp Plan would only have general zoning, e.g. Rural Residential, Forest, Agriculture, etc., none of which would be distinct. Dennis Schultz stated that he was not opposed to that, but it was something that should be considered. Mr. Peters stated that, if the amendment was docketed, it was something that should be worked out. He pointed out that actual line-in, line-out language would have to be developed during the process, and the issue could be dealt with then.

Edel Sokol moved that the Planning Commission recommend docketing MLA06-78 to the Final Docket. Peter Downey seconded the motion which carried unanimously (8-0-0).

It was agreed that staff would write a memo containing the commission's recommendations for the Chair's signature.

Dennis Schultz suggested that the TDR Committee work on that amendment [MLA06-86] after the BOCC finalized the docket.

### C. ADJOURNMENT

Concerning committees, Josh Peters suggested that the Planning Commission consider forming committees for the Black Point MPR and the Shoreline Master Program in addition to the UDC and TDR Committees. Dennis Schultz stated that the WRIA planning groups was another possibility. Bud Schindler stated that the critical areas ordinance was another issue that may benefit from a committee.

Peter Downey suggested that the Planning Commission take up the issue of committees at its next meeting and determine whether the commission wanted to have additional committees and assign members to them. Josh Peters stated that committees were not necessarily required, although in some cases it may be the best way to address an issue.

The commissioners and staff discussed appearance of fairness and conflict of interest, particularly as it related to the proposed Brinnon MPR. Josh Peters stated that the application was a legislative action, not quasi-judicial, and therefore those doctrines did not apply.

Jim Hagen stated that the April 19 meeting would have the Omnibus issue on the agenda as well as the committee issue.

Bud Schindler raised the issue of reimbursement for mileage for Planning Commissioners attending committee meetings. Mike Whittaker stated that the policy was that the Planning Commissioners could be reimbursed for the regular Planning Commission meetings only. Reimbursement for committee meetings or other Planning Commission functions must be approved prior to the travel. He thought that reimbursement for committee meetings should be allowed since the committee members were doing official work for the Planning Commission. Josh Peters explained that the policy was that Planning Commissioners could be reimbursed for the two regular meetings each month. Other cases would be on an exception basis and required pre-approval. He stated that the Planning Commission was the only advisory body in the county that received any reimbursement at all. He stated that the Planning Commission's budget came through the BOCC's office and the mileage budget was nearly exhausted already. He stated that if the policy was changed, the budget would need to be increased. Peter Downey offered the opinion that, in fairness, the South County representatives should be compensated. He stated that he would not apply for travel expense because he lived so close. Some other commissioners indicated that they would not, and had not, applied for reimbursement, but the South County representatives should be reimbursed because they came so far. Mr. Schindler stated that if the county wanted representation from the South County, it made it very costly, particularly nowadays, to come North for meetings. Mr. Peters pointed out that committee meetings were not mandated by law at all; they were voluntary as well and they had just started in the last two or three years.

Josh Peters announced that there would be three meetings in Brinnon this year. On May 8 there would be a SEPA scoping meeting for the Black Point MPR. Then on September 6 and September 20 there would be Planning Commission meetings in Brinnon as well on the MPR proposal.

The meeting was adjourned at 9:03 p.m.

**D. APPROVAL OF MINUTES**

These minutes were approved this \_\_\_\_\_ day of May, 2006.

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Jim Hagen, Chair

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Cheryl Halvorson, Secretary