

JEFFERSON COUNTY PLANNING COMMISSION

MINUTES FOR APRIL 19, 2006

- A. OPENING BUSINESS
- B. UDC OMNIBUS AMENDMENT PACKAGE ANNOTATIONS
- C. PLANNING COMMISSION COMMITTEES
- D. 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, JD Gallant, Dennis Schultz, Peter Downey, Henry Werch, and Bill Miller. Edel Sokol and Mike Whittaker were excused.

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

There were three members of the public present. Those who signed the guest list were Nancy Dorgan and Frank Kelley.

The Chair invited staff updates.

Josh Peters summarized the staff handouts. They included: the Planning Commission and staff recommendation for the Final Comp Plan amendment docket; a list of the LRP staff project assignments; a list of the MLA numbers for LRP for 2006; a packet of information on no shooting zones; and a draft staff memo on the annotation of the Omnibus. Mr. Peters stated that the BOCC would take up the Final Docket topic on April 24.

Concerning the list of LRP project assignments, Bud Schindler asked if staff had considered the Planning Commission's matrix of projects that was created in February. Josh Peters replied that staff was familiar with the matrix. He stated that this list was not prioritized like the Planning Commission's. He did not think any of the commission's projects were missing from the LRP project list. He pointed out that the no shooting zone issue had been added to the list. He explained the BOCC's request for criteria for establishing a no shooting zone without having a petition first.

Dennis Schultz suggested that due dates or target dates be included in the LRP project list. Josh Peters responded that he had made note of the suggestion and would consider revising the list, or creating a new list, to include due dates for projects.

Josh Peters stated that there was a possibility that a Port Ludlow MPR code amendment may be proposed during the year. There were various entities in Port Ludlow expressing such an interest. That possible project was not reflected on the LRP list.

Henry Werch asked for clarification about the process, especially relating to the no shooting zone issue. He was concerned that the process not be overly complicated. Josh Peters responded by describing the process for GMA related actions, which may entail public hearings before both the Planning Commission and the BOCC. He thought the no shooting zone issue would have only one public hearing before the BOCC. He thought the issue was presented to the Planning Commission by the BOCC rather than the BOCC setting up a separate task force on the issue. Jim Hagen offered the opinion that the BOCC wanted the no shooting zone issue to go forward fairly quickly and on a path of least resistance.

Bud Schindler stated that it was important to him that each of the proposed projects for the year be prioritized, whether they were "hot" issues with the public or not, and some idea of the scope. Those issues were important in terms of managing the projects in order to understand the resource requirements to support them.

The Chair invited committee reports.

Rachel McHugh stated that she had handed out a draft memo on the annotations for the Omnibus. She stated that she had attached additional material concerning the mineral question and the boundary line adjustment question. She stated that another committee meeting was scheduled for April 25.

Bud Schindler stated that the May 14 memo Ms. McHugh referenced was the letter that Kevin Russell and Dennis Schultz wrote that the Planning Commission thought was the complete annotation and rationale for all of the Omnibus changes. However, there were other things proposed by staff after that date. Many of those proposals came from other county staff, e.g. Public Works. Therefore, there were kind of two phases to the Omnibus drafting. He stated that the committee was not sure about the annotations that took place during that second phase. Rachel McHugh stated that she had gone back to county staff on those issues. Hopefully before the April 25 committee meeting, she would have responses from them outlining their reasons and rationale.

#### **B. UDC OMNIBUS AMENDMENT PACKAGE ANNOTATIONS**

Bud Schindler asked for staff's recommendation on how the Planning Commission should proceed. Josh Peters suggested that the Planning Commission hold a general discussion on the draft memo at this meeting, hold the committee meeting on April 25, and bring the package back to the full Planning Commission at the next meeting for a review and, if possible, move the package back to the BOCC for another public hearing. In terms of this meeting, he stated that the commissioners could choose to go through the memo item by item or the commission could tease out the more important issues and discuss them.

Dennis Schultz asked if staff had asked the BOCC about the format of the draft memo and if that approach was acceptable to them. Josh Peters stated that he had talked to Commissioner Sullivan, who had made the motion. Commissioner Sullivan had indicated that the approach staff suggested would suffice.

Henry Werch asked if the rationales could be color coded so that they could be easily read. Josh Peters replied that we could do that or possibly do some consolidation, similar to the May memo. However, if it took different colors to make the memo more readable, staff could do that. Rachel McHugh stated that she had used the colors in order to show some of the different explanations. She stated that they could be combined or condensed when the committee decided on the best wording. Mr. Peters stated that the draft memo would be the principle new information, as well as any revised recommendations from staff and/or the Planning Commission. Staff would also reprint all the Omnibus sections yet to be acted upon. Also attached would be everything staff could find in the record that pertained to the history of the Omnibus. He cited certain examples which would act as appendices to support the final document.

Bud Schindler asked if staff had found any significant "red herrings" in the package that were weak. Josh Peters stated that one reason he had assigned the Omnibus to Ms. McHugh was because she would be looking at the package with new eyes. He stated that she had found items and posed questions to him that raised concerns about issues that needed to have the rationale filled

in. Rachel McHugh provided two examples that sort of jumped out at her. One had to do with signs and the other related to stormwater management. Another was apparent conflicts with the recommendations for boundary line adjustments and what DRD understood when they were working with those permits.

Jim Hagen stated that the Planning Commission had held a spirited discussion on the sign issue. He stated that he could point out the Planning Commission minutes where that discussion occurred. Josh Peters state that he remembered a discussion about political signs. Peter Downey stated that the commission specifically discussed sign heights as well. Mr. Peters stated that signs in the UGA were discussed as well. However, that discussion was not as relevant now since that chapter had been rescinded from the code. Mr. Peters thought the UGA sign discussion probably prompted a broader discussion about signs county-wide. Bud Schindler stated that was exactly what happened.

The Chair invited public comments.

Nancy Dorgan commented on the interim ordinance that the BOCC adopted on the UGA. She stated that, while she supported the ordinance, she was dismayed to see that there was not a single reference to Appendix D. She stated that, at the compliance hearing before the Hearings Board, there was a great deal of discussion about the loophole that existed between Appendix D and JCC 18. She stated that the reason the noncompliance was not lifted was because of the ambiguity between the documents. She stated that it was very important for clean compliance to address the ambiguity and this ordinance did not address that. On a different topic, she stated that she had seen an article in the paper about the Dan Evans family compound project on the Bolton Peninsula. She wondered about the zoning for it, whether it was forest land that would require a rezone, noting that no Comp Plan amendment had been submitted.

Frank Kelley stated that he wanted to address the night time mining issue. He stated that they lived in the South Point Road area, just down hill from the Fred Hill Materials operation. He expressed his appreciation to the Planning Commission for taking up the issue again. He stated that it was an issue that was very important to him. He stated that he was hoping the Planning Commission would consider the impact of night time noise from mining. He stated that he had not gotten answers to some of the questions he asked last October about noise impacts. One was what the trigger would be to issue a determination of significance. In their case, they lived across the road from the mine. If the pit to pier came through, the impacts would change dramatically, because it would be one of the largest surface mines in North America. He thought the scope of the mine would dramatically change from what was there previously. He stated that Edel Sokol had said that people who lived next to a mine should expect a certain amount of noise. He stated that was fine if nothing changed, if the scope of the mine was much the same. However, if the scope of the mine was dramatically increased, he thought there should be some regulation to protect the other property owners. He stated the opinion that the old UDC language was very clear about noise disturbances after 7:00 p.m. He thought that, if anything, the changes were more ambiguous than the original meaning. He stated that he had asked staff to pull out the information from the original deliberations on the UDC in 2000. One of his concerns specifically related to proposed language that would replace "All extraction or reclamation activities that create a noise disturbance must take place between 7:00 a.m. and 7:00 p.m. on weekdays unless extended hours of operation are authorized for emergency purposes by the Administrator." He stated that in 2000, the Planning Commission was

considering what kind of noise neighbors should expect from cottage industries. He thought it related to the mining issue. Then Planning Commissioner Pat Rodgers made a motion that 4.17.3.b read that any after hours business activities shall not have any impacts discernable beyond the limits of the property. The motion carried unanimously. His point was that, if you were in certain neighborhoods, a cottage industry across the street could not make any noise. But if he happened to have a forest across the street, for example, and a miner came along and wanted to work all night long, they could do it unmitigated. He thought that was wrong. He thought the proposed new language represented a change in the intent of the code. He was glad the BOCC had the integrity to send the Omnibus back to the Planning Commission. He thought it said a lot about what they thought about this institution. He stated that if it was only housekeeping changes, it was fine, but there were substantive changes in the Omnibus. He stated that he did not understand why we would take out the very clear cut language about noise disturbances after 7:00 p.m. and replace it with ambiguous, unclear language. He thought it fell short. He thought it related to one applicant. He asked the Planning Commission to give the issue its full consideration and try to make it uniform with the rest of the code.

Jim Hagen clarified that the thought that the Omnibus only related to housekeeping issues was erroneous. Housekeeping was just one element. He stated that it had always been the well publicized intent that there would be policy and amendment changes included with the Omnibus process. One example was the LUPEDAP committee which was formed in part to make suggestions related to economic development to be incorporated into the Omnibus.

Frank Kelley asked where the need for the Omnibus came from. Josh Peters responded that the BOCC could amend the code at will as long as it was consistent with the Comp Plan. The policy was set with the Comp Plan and the development code implemented the Comp Plan.

Concerning Ms. Dorgan's comments about Appendix D, Josh Peters stated that, when the county adopted the UDC in 2000, we used as a template a code format from a neighboring county because it looked like it would be easy to use. However, the UDC always existed as part of the Jefferson County Code [JCC] as well (as Title 18). Legally, when we got into a court of law, the county was instructed by the judge that we needed to reference to the JCC only and not use the other code references [the UDC]. He stated that staff had purposely not given the new Planning Commissioners a copy of the old UDC because we were trying to move away from that completely. With that in mind, there was really no such thing as Appendix D. Since he was not a party to the discussions in front of the Hearings Board, he could not respond to that. But he was party to discussions with the Prosecuting Attorney and that issue did not even come up. While it was perhaps a matter of interpretation, the county's interpretation was that it was not a big issue for the Hearings Board. The fact that there were urban provisions, even though they were not in effect because they were invalidated by the Hearings Board, was the issue. The idea was that they should be repealed because it was confusing for the applicant. The county decided to rescind the urban standards altogether and then some level of urban standards would be put into effect later. Therefore, Chapter 18.18 of the JCC had been rescinded and had no appendices. He stated that there were no appendices in the JCC. For example, one of the appendices of the UDC was the building code ordinance, which was in Title 15 of the JCC. So the appendices of the UDC were for convenience only; they were actually located in a different part of the JCC. So from staff's perspective, Appendix D was a "shell" and was no longer pertinent.

Cheryl Halvorson read and summarized a letter submitted by Barbara Fisk concerning her opposition to auto repair shops in Rural Residential districts. Ms. Halvorson stated that she would provide copies of the letter to the commissioners in the next mailing.

Jim Hagen returned the discussion to the annotations issue. He thought it would be appropriate to indicate where some of the issues came from, citing Public Works as an example. Signs and the cottage industries topics came from the Planning Commission, as an example. Much of the mining issue proposal came from DRD. The food and beverage issue came out of the UDC Committee. He thought it would be important to include notations in the annotations about who initiated the suggested amendments so that the BOCC would know who to ask if they had further questions. Mr. Hagen reiterated that some changes were not generated by the Planning Commission.

Josh Peters stated that, while he did not know the entire history of some of the policy recommendations, part of the Omnibus was to codify prior code interpretations. He noted a code interpretation from 2001 included in the handout package regarding mineral extraction. Staff wanted to codify that interpretation into the code so that staff would not have to rely on a separate code interpretation any longer. He stated that there had been a lot of discussion before the Planning Commission for a Comp Plan amendment for a quarry in Quilcene. A lot of the discussion had to do with noise. His interpretation of the decision was that the state had WACs addressing noise for daytime and night time hours, how long the noise could last, exceptions, etc. King County had provisions that were more stringent. This county elected to use King County's provisions as a model and actually have provisions that were more stringent than the WAC. He stated that the issue had to do with noise levels at receiving areas. If you have a mining operation in the middle of the forest and there really was no one to hear it, it was not creating a noise disturbance. To say that you could not have operations after 7:00 p.m. made no sense. However, in another area where there were neighbors, it was a different situation because there were receiving properties and you should not exceed state standards for night time operations. That was generally the interpretation at the time of how the county would administer the 7:00 a.m. to 7:00 p.m. provision. Whether the proposed language effectively addressed that or not was something that should be discussed. However, clearly there was a need to address the issue because it came up in the past during Comp Plan amendments or via code interpretation requests.

Bud Schindler suggested that the commission go directly to the more controversial topics rather than looking at the ones that were not a problem and that had been annotated already. He suggested that staff was in a better position to direct the commissioners to the most important issues, particularly the ones the BOCC seemed to be stuck on. Jim Hagen stated that the commission could work from the BOCC's motion itself because that was the commission's directive. Mr. Schindler stated that the motion was at more of a high [general] level. He thought that if you were going to do that, the commission would need to do everything. His opinion was to look for the most controversial, the "red herrings". Josh Peters agreed that it would be a better use of time to identify the issues that were problems and discuss them. The challenge was identifying the ones that were the most problematic. His recollection of the BOCC discussion was that, when they were reviewing the Definitions section, because staff was unable to say definitively why we were proposing to delete certain definitions and add others, it became

symbolic of the overall inability to describe why each and every change had been proposed and its origin. He stated that he had not received any specific guidance about what were specific problem areas that should be addressed more so than others, except for ones the Planning Commission had already talked about. Signs was one and it sounded like the commission had reached some level of agreement. Concerning sign height, he stated that he knew that when Kyle Alm was doing sign research, he looked at other communities and the UGA, and had even polled people. The mineral issue was one that was commented upon by the public quite a lot, so it was an issue. Cottage industries for auto repair shops in Rural Residential districts was another topic that was commented upon by some members of the public. He did not know if the Planning Commission was satisfied with how those issues had been addressed in the Omnibus.

Bud Schindler stated that Commissioner Sullivan had a book with marker tags on it marking his areas of concern or question. He asked if the Planning Commission could get a copy of those marked places to see his specific comments. That may be helpful to the Planning Commission's effort.

Jim Hagen again offered the opinion that the BOCC's motion provided enough direction to the Planning Commission. He thought the draft memo provided a good explanation of why the commission and staff recommended deleting the references to the Appellate Hearing Examiner. His point was that he did not think the Planning Commission had to annotate everything. He thought the commission only needed to concentrate on those sections the BOCC remanded back to the Planning Commission. Josh Peters responded that he had a similar thought, but then he looked at the motion again and it was a lot broader than it seemed, noting that the motion contained whole chapter titles.

Peter Downey stated that Mr. Schindler had a good point. He thought the commissioners should talk and communicate before just jumping into it and missing the mark again or waste more time.

Josh Peters thought part of the BOCC's concern was less focused on specific issues, although some were mentioned. Signs was mentioned and possibly one or two other issues. He thought it was more of a general concern about the legal notice for the BOCC's public hearing and that it did not cover every single issue. Jim Hagen stated that during the joint workshop with the BOCC, the discussion centered around an explanation of the changes. While there was reference to the wording of the hearing legal notice, what the BOCC really wanted was annotated detail of the code changes themselves for purposes of effective deliberation on their part. Mr. Peters asked if there was a list of specific important or controversial issues. Mr. Hagen replied that the BOCC mentioned the motion.

Josh Peters read the motion and summarized the portion of the BOCC minutes where the BOCC remanded the Omnibus back to the Planning Commission. The motion referenced Chapters 18.10, 18.15, 18.20, 18.30, 18.35, and 18.40. Mr. Peters stated that those chapters were fairly lengthy. The BOCC also directed that top priority changes that needed to be addressed in a timely manner should be addressed first. Mr. Peters stated that top priority changes, at least as conceived by the BOCC, were not specified. He stated that was why staff suggested holding another public hearing on everything. Jim Hagen commented that when the Planning Commission was asking for specifics at the joint workshop, the response was that the directive was very clear in the motion. However, he did not get a lot of clarity from the motion.

Henry Werch stated that something he heard in the motion was that, clearly, the BOCC wanted to know whether certain changes were supported by public hearing. He asked if we were saying that we did not have an easy record to draw on to make note in what was presented to them as to what reflected or did not reflect something that went through the hearing process. Josh Peters explained that there was a public hearing before the Planning Commission which was noticed with a legal notice. He explained how staff identified and summarized sections containing changes. Since it was such a large package, not every single change was mentioned. The same legal notice, or maybe a slightly modified one, was used for the BOCC's hearing. So there were two duly noticed public hearings on the Omnibus. Section headings were identified and general themes were identified, but not every specific detail. He thought Commissioner Sullivan went through the list and identified instances where there were proposed changes that were not included in the legal notice. He thought it was better to go back and hold another public hearing on the entire package and do a better job of describing what was in the package, which would give the public another opportunity to speak to the elected officials, which generally was a good thing, especially when the package was as large as this one. He stated that if the general criticism was that there was not enough public process, then he advocated having more. In response to Mr. Werch's further question about timing, Mr. Peters provided an outline of when and how the process would proceed.

For the benefit of the new Planning Commissioners, Jim Hagen stated that one of the complaints was lack of specific public notice. He noted the four page legal notice that was done. He stated that he was curious about how the county could improve on that notice. He wondered if the county was expecting to take out a full page ad in the Leader. Josh Peters stated that his understanding was that Commissioner Sullivan, and perhaps others, went through the notice and identified areas that were not mentioned in the notice that were proposed for amendment. What staff was planning to do was to go over the legal notice with a fine tooth comb and add to it to make sure that every change was documented.

Peter Downey stated that the commission should come back to Mr. Schindler's earlier comment about looking at Commissioner Sullivan's concerns directly. He thought the commissioners should address all of those notes. He thought that, otherwise, the commission would miss the mark again. Josh Peters stated that staff would contact Commissioner Sullivan and ask him if staff could have his book or a list of those issues. Bud Schindler commented that it may save time in the long run.

Josh Peters stated that what staff would like from the Planning Commission in helping to compose the memorandum was the commission's collective memory. He stated that staff had already gleaned some of that. The fact that the sign issue came from Planning Commission discussion was great information that could be added to the memo. He referred to a December, 2004, staff memo to the BOCC that explained what staff was proposing and the reasoning behind many of the changes staff was considering proposing at that time. At that time, the changes were not in line-in, line-out format; they were just beginning to be formulated. Then a lot of work happened in conjunction with the Planning Commission committee. He understood that some of the ideas were generated from those committee meetings. They were not just staff generated issues, although staff had a whole wish list of things to change, clarify, or correct about the code to make it easier to implement. Also, where it was possible and consistent with the Comp Plan, they wanted to make provisions

that would make it easier to get permits or to assure they were not blocking economic development. Mr. Peters noted the October 13, 2005, staff memo that outlined additional suggested changes. He stated that those issues came from DRD staff or other county departments after the Planning Commission finished its work. He suggested that it might be appropriate for the Planning Commission to review those topics now if the commission wished.

The commissioners and staff discussed some specific issues:

- (1) temporary outdoor uses. Josh Peters stated that the topic came from DRD for ways to handle certain proposals that came to the front counter;
- (2) espresso stands or temporary food and beverage stands. Bud Schindler stated that the UDC Committee held extensive discussions on the issue. He thought it was included in the Planning Commission annotations. Josh Peters stated that the issue came from trying to deal with the use, which was obvious. He stated that traffic was an issue and also health standards. There were a lot of discussions with Environmental Health which carried over to the Planning Commission. Rachel McHugh stated that perhaps the temporary outdoor uses issue was connected back to that conversation. Perhaps they were inter-related and she did not realize it.

Josh Peters stated that they were two different issues but often times they were the same. Examples of questions were: When did an espresso stand become a permanent structure? When was it actually temporary? And when was something a seasonal structure like a farmer's market? He cited the Shrimp Fest in Brinnon as a temporary food provision. While we already had some provisions in the code, there was a need for clarification.

- (3) 18.30.090 relating to pedestrian circulation. Josh Peters stated that it required more direction from Public Works. He thought the provision was to establish a nexus to the Non-Motorized Transportation and Recreation Plan.

Josh Peters stated that his honest answer to the original question was that he did not know what the "red herrings" were specifically. He thought we had identified some of the things, which was very helpful, and staff would continue to work with the committee on April 25. But in terms of anything else that would come to mind immediately that would need to be discussed and explained, he did not have a specific idea about it. Jim Hagen thought it would be really important for the Planning Commission to get the information from Commissioner Sullivan. Staff agreed to try to get it from the BOCC office.

The commissioners and staff discussed holding an additional meeting on May 2. It was agreed that staff would advertise a meeting for May 2 and if the UDC Committee did not need to hold it, it could be cancelled.

The commissioners and staff discussed the sign issue and the commission's reasoning for its recommendation. Dennis Schultz stated that the reason for the commission's recommendation on political signs was because of a U.S. Supreme Court decision relating to freedom of speech. They discussed the reason for the recommendation for the 15-foot height recommendation. Mr. Schultz stated that staff did a survey of signs in the county and found that

15 feet seemed to be the highest. There was also discussion about tombstone type signs and whether they should be allowed to be 15 feet or something in-between. Josh Peters stated that was his recollection as well, adding that Kyle Alm had actually gone out and taken pictures of signs. Mr. Schultz stated that another thing the commission did was to recommend that above grade signs be seven feet for safety reasons instead of six feet.

Bud Schindler stated that his recollection was that the Planning Commission, after much spirited discussion, finally ended up going back to the original height and not recommending a change. Dennis Schultz stated that the original height was 35 feet, but since staff could find no sign that tall and the highest found was 15 feet, the UDC Committee recommended 15 feet. Jim Hagen thought it was established that the new sign at Shold was 25 feet, and since that was a new sign, it was used as an example. He stated that, while a lot of it was considered arbitrary, individual observation, the Shold sign was not considered obtrusive and yet still considered accomplishing the goal of a sign. Mr. Hagen stated that one of the discussions about monument signs was that they might work fine in company with a Home Depot or a Safeway because those businesses were readily recognized. One of the disadvantages of a monument sign was that people did not recognize small businesses.

Dennis Schultz stated that he saw in a memo to staff that the commission had asked staff to correct the 15-foot height to 35 feet. Jim Hagen and Bud Schindler both remembered the memo as well. Peter Downey stated that the original standard was 35 feet; the Planning Commission discussed lowering it and decided to leave it at 35 feet since it was not hurting anyone. Josh Peters stated that there was actually no recommendation from the Planning Commission to change the height provision then. Mr. Downey agreed, stating that the committee recommended changing it but the Planning Commission questioned that and decided not to change it from the original. Mr. Peters stated that staff would verify it.

Jim Hagen stated that the commission held discussions about more than sign heights. There was discussion about square footage, multiple signs for a business park, how many signs at an entrance point, etc. Concerning political signs, Mr. Hagen stated that Edel Sokol had referenced a U.S. Supreme Court decision on a First Amendment issue. However, he pointed out that a memo in the packet contained a reference to a request by Commissioner Sullivan that the political sign regulations reflect a recent State Supreme Court case. That decision said that it was not constitutional unless there was a compelling state interest, which could be a safety concern. He stated that the Planning Commission's recommendation was based upon a U.S. Supreme Court case which seemed to conflict with the State case. Henry Werch stated that what he read from the State case was that it allowed for the regulation of certain placement and the removal of political signs but not the content of the signs. He stated that, while Ms. Sokol was correct that the county could not regulate the signs, it could regulate nuisances. If the sign was fixed in such a way that it became a nuisance, such as a safety issue, it could be dealt with as a nuisance rather than as a sign. Josh Peters stated that we could regulate location and size but not content.

JD Gallant asked for clarification about home businesses and cottage industries. Josh Peters briefly explained the differences.

The commissioners and staff discussed the cottage industries issue, particularly relating to auto repair shops. Josh Peters stated that, originally, auto repair shops were prohibited in Rural Residential districts

as a cottage industry. Then an enforcement case came up and, in a sense, the commission was asked to not look at the details of that enforcement case but to consider under what conditions small scale auto repair would be permissible as a cottage industry. He pointed out that the use was actively occurring in more than one location around the county. He stated that it was a health and safety issue and the question was whether we would actually permit it. One option would be enforcement, which was lengthy and costly. You could do that as a policy decision. Or, you could permit the use. With a permit you would gain conditions on the permit to address performance standards, environmental regulations, public safety, etc. Therefore, staff suggested considering permitting small scale auto repair which would have to comply with all those conditions. He stated that Barbara Fisk was concerned with one specific case in a neighborhood dispute. What we were trying to accomplish with the proposed amendment was to get this case and other cases like it to actually get a permit. Then the county would be in a better position to monitor the activity. The Planning Commission reviewed it and recommended it. The BOCC could consider it and decide not to adopt it but to stay with what we currently had (a prohibition of the use) and to do enforcement instead. Bud Schindler stated that Mr. Peter's summary made perfect rationale sense to him.

For the new commissioners, Jim Hagen explained that Barbara Fisk was present before the Planning Commission numerous times in 2005 to speak against allowing the use. He thought the commission decided that the problem was not the code, because the code was proposed; it was an enforcement issue. The particular use was actually violating a code prohibition. He stated that you may very well have the same thing even if you had code language. Either way, it would be an enforcement issue. The commission sympathized with Ms. Fisk because it was causing problems for her neighborhood. However, one isolated case did not make it a bad policy. Henry Werch stated that prosecutor's would say that it was easier to prosecute regulation than prohibition. Mr. Hagen stated that auto repair was just one small component. He stated that the purpose of the cottage industry section was broader than just auto repair; it just happened to be one of the additional allowed uses.

Bud Schindler stated that the auto repair issue was well stated by Mr. Peters as the rationale for the proposal. He asked if there were other issues related to cottage industries. Josh Peters replied that he did not know of any. JD Gallant stated that cottage industry and home businesses were very important to the economy of the small communities such as Quilcene and Brinnon. He remembered a news article from 2005 that addressed cottage industries. He offered the opinion that the provisions needed to be clarified. Mr. Peters stated that, in fact, Brinnon and the West End had different regulations for home businesses and cottage industries essentially because of the distance to urban growth areas and lack of opportunities in designated rural commercial and industrial areas. They allowed more employees, an easier permit process, etc.

Josh Peters reviewed several sections of the staff memo and briefly reviewed the rationales that he remembered. He suggested that the UDC Committee look at the Definitions.

Peter Downey suggested that, in light of the public comments regarding mining, the committee look at the mining issue again. It was suggested that the staff person who suggested the revision come to a UDC Committee meeting to talk about the issue. Josh Peters stated that, while the proposal came from DRD staff, it was proposed prior to the Planning Commission public

hearing. Therefore, the Planning Commission did consider it through public review and recommended those changes. At that point, it became recommended by both the Planning Commission and staff. That did not mean it could not be looked at again. Dennis Schultz stated that it had been an issue for the BOCC. Mr. Peters stated that it was possible that the BOCC could decide they wanted to have a public hearing on the code amendment package without those sections. He stated that the Planning Commission could, at its discretion, discuss the issue again and make a further recommendation to the BOCC.

Bud Schindler asked if staff had enough rationale for the proposed mineral extraction proposal. Josh Peters thought it would take more written discussion but he thought he had already laid it out to the commission orally. It included code interpretations, permit applications that were difficult to handle, provisions that were hard to apply, and the two Mineral Resource Lands Comp Plan amendments where there were issues about noise as well as other factors. He stated that the issue of intensification came up in at least one or two permit applications or enforcement actions. One of those related to a request by Northwest Aggregates for a code interpretation for Mats Mats Quarry in 2001. That interpretation was something staff wanted to include in the code. It also offered an opportunity to make sure it was the correct code interpretation. He explained that a code interpretation was when the Code Administrator had to look at a provision and make a judgment. This would give an opportunity for the legislative body to see if they agreed with that interpretation.

JD Gallant and Josh Peters discussed the mining code provisions using the example of extended hours. Mr. Peters stated that the problem with writing code was that you could write a couple of sentences and that would be perfect and was all you needed and it provided enough flexibility. On the other hand, you could write five pages of code and try to address every possible issue and still have problems. He stated that he did know that there had been cases where requests had been made in the past about specific instances and those requests had been addressed. Every request that he was aware of had timelines associated with them. Mr. Gallant stated that he had been a technical writer and so believed in precise, concise and clear language. Jim Hagen stated that Mr. Gallant was welcome to attend a committee meeting, as long as there was not a quorum of the Planning Commission present, and provide additional input.

### **C. PLANNING COMMISSION COMMITTEES**

The commissioners and staff discussed possible future Planning Commission committees. Items discussed were the Shoreline Master Program [SMP] update, the Master Planned Resort [MPR], the no shooting zone issue, and critical areas.

Jim Hagen asked if the critical areas issue warranted a committee since it would be coming before the Planning Commission soon. Josh Peters provided a history of the critical areas code provisions, which were not adopted by the BOCC. As a result of an appeal and settlement agreement with Washington Environmental Council, the county must return to the issue and adopt an updated critical areas ordinance. He thought the proposal that would be presented by staff would probably closely resemble the previous package. The commissioners agreed to wait for the staff proposal. Mr. Hagen offered the opinion that it did not warrant a committee.

Jim Hagen suggested that the Planning Commission should have a SMP Committee and a MPR Committee because they were very large issues. The commissioners also discussed a committee for the TDR issue along with the Rural Residential designation criteria, combined. Mr. Hagen stated that Mr. Downey had expressed an interest in the SMP update effort. Bill Miller also expressed interest in the SMP.

JD Gallant asked what issues would come before the different committees. Josh Peters suggested that the MPR Committee could follow and address the Brinnon MPR proposal. Also, if any legislative issues came forward on the Port Ludlow MPR, that committee would be the appropriate venue. As an aside, Mr. Peters stated that the scoping notice for the Brinnon MPR environmental impact statement was in this date's paper. The notice included a scoping meeting in Brinnon on May 8. Bud Schindler, JD Gallant and Henry Werch volunteered for the MPR Committee. Jim Hagen stated that he would like to serve on the MPR Committee as well, although he could just attend in his capacity as Chair without formally being on the committee, as a former Chair had done.

The commissioners and staff discussed the committee format, number of members, and how often to meet. Josh Peters stated that he wanted to revisit the quorum issue. His understanding was that you did not want a quorum in a location where you have not advertised a public meeting. In the case of committee meetings, it would be advertised, so that seemed to address that issue. However, there may be an issue with the committee itself if you had five Planning Commissioners on a committee because it would be a defacto Planning Commission majority. He did not see where having other commissioners come to a meeting to discuss issues would be a problem, but he wanted to look into it further. He stated that the purpose of a committee was to discuss issues and present information or recommendations; it was not to make decisions that would be official Planning Commission decisions.

Josh Peters explained how staff envisioned the SMP update. In the beginning, staff would form two advisory committees - the Shoreline Policy Advisory Committee [SPAC] and the Shoreline Technical Advisory Committee [STAC]. That would lead to a public charrette in October. It appeared that Mr. Downey would be the Planning Commission's representative on the SPAC. However, he suggested that it may be appropriate for the Planning Commission to have a committee on the SMP update as well. It would serve as a way for Mr. Downey to discuss issues in detail with other Planning Commissioners before coming to the full Planning Commission. He thought it might take three or four meetings this year of a SMP Committee. Then when the update came to the full Planning Commission in 2007, the committee would take a more active role.

Dennis Schultz offered to be a committee of one to draft the specific language for the zoning district Comp Plan amendment he had suggested. Then he could work with staff to complete the package. Josh Peters clarified that work would only be necessary if the BOCC docketed the amendment.

Bud Schindler stated that he was involved in the South County Chamber of Commerce. He stated that the CofC was sponsoring a citizens committee for the MPR. He wondered if that committee would be connected somehow to the Planning Commission's MPR Committee as an advisory group, similar to what was done with the UGA. He wondered if such a scenario was appropriate. Josh Peters stated that his first reaction was that it was entirely appropriate to have communication between those bodies. We did want to, as a Planning Commission, get information from anyone who was interested. The difference

he saw was that, in the UGA case, the Task Force was appointed by the BOCC for a specific purpose, and the Planning Commission committee was connected with that purpose officially and formally. To his knowledge, he did not know of any association between the BOCC and the South County CofC in the formulation of that committee. While there was nothing wrong with the CofC forming a committee, there was a difference from a task force appointed by the BOCC. Jim Hagen wondered if Mr. Peters was referencing a potential conflict of interest. Henry Werch thought Mr. Schindler was trying to define "associated". He thought that the MPR Committee would want to invite the CofC group, and any other stakeholder group or individual, to everything the committee did to make sure that the public process and public needs were addressed. However, he would not feel comfortable having the committee and the CofC group sitting together hearing input from other interested parties. Mr. Hagen stated that the committee meetings were open to the public so there was nothing to prevent members of the CofC, or anyone else, from coming to those committee meetings. Mr. Peters stated that he was not suggesting a conflict of interest. He stated that when the BOCC established an advisory body, such as the Planning Commission, it was done with a specific public purpose - to advise the county legislators. Therefore, we had to follow certain rules. For example, all the meetings must be public and advertised. Notes would be taken. On the other hand, the CofC operated under its own rules and by-laws. What he was suggesting was that, until it was known that the BOCC had established a committee to review the MPR and, by the way, that committee was directly associated with the South County CofC, it would actually put different responsibilities on that committee than they might be considering right now. The MPR Committee could invite anyone to provide input at its meetings, but those meetings would have public notice and would be part of county government, because the commission was providing official advice to the county legislators. Mr. Schindler stated that he would need to see if the CofC, as a sponsoring organization, wanted to go to that extent or if they just wanted to be able to facilitate the local citizenry in the discussions.

In response to JD Gallant's question, Josh Peters explained that initially the MPR Committee would concentrate on the Brinnon MPR proposal. However, it was suggested that the MPR Committee become the MPR Committee in the broader sense because it would be familiar with the statutes. He stated that the county had existing code for the existing Port Ludlow MPR in Title 17 of the JCC. There were also provisions in the UDC [Title 18] to allow new MPRs, of which Brinnon was proposed. He stated that there was a possibility that some matters may come before the Planning Commission relating to the Port Ludlow MPR. They could have to do with changing the map, or changing the code, or changing the development agreement. The first two topics would certainly be issues for the Planning Commission. He suggested that a MPR Committee would be the appropriate venue for those matters if they came up. Jim Hagen thought that any proposals on Port Ludlow should be put off to 2007 because the committee would have a full plate with the Brinnon proposal this year.

Bud Schindler raised the issue of the WRIAs. He stated that the Planning Commission sent representatives to the WRIA 16 and 17 meetings, and he had been trying to keep up with WRIA 20. He stated that, once the plans for each of the WRIAs in the county were adopted by the county, the county would be obligated to do something about them. He thought that we should have staff, and probably the Planning Commission, getting ready to decide how to bridge the gap between the county and the plan. Dennis Schultz pointed out that 18.05.050(4) said "All other county boards, committees and commissions shall coordinate their planning activities as they relate to land use or the

Jefferson County Comprehensive Plan with the Planning Commission." It was pointed out that the Planning Commission representation on the WRIA groups was only advisory. Mr. Schindler thought there should be some effort going on as it related to the effects on the Comp Plan and that should involve the Planning Commission. Mr. Schultz stated that the actual planning for WRIA 17 would not start until later as far as implementing the plan the BOCC adopted. Concerning the instream flow rule, he stated that DOE's goal was to have it in place by July, 2007.

Jim Hagen stated that a bill in the last Legislative session, that was defeated, directly linked population projections submitted by the Office of Financial Management for the purpose of 20-year comprehensive planning to water availability. He thought the bill would come up again. If passed, it could very well be that the Planning Commission would have more of a say in the WRIA issues in the future. Mr. Hagen stated that Phil Flynn had been appointed to the technical advisory committee for WRIA 17, but he was no longer serving. Mr. Hagen stated that he would assume that role on the WRIA 17 group with Bud Schindler as the alternate. Dennis Schultz stated that he was also on the WRIA 17 group as a representative of the Conservation District.

Jim Hagen stated that the critical areas issue could wait for a staff proposal before determining whether a committee was warranted. Also, Dennis Schultz would act as a committee of one on the suggested amendment. The MPR Committee would consist of Henry Werch, JD Gallant, and Bud Schindler. The SMP Committee would consist of Peter Downey, who would also serve on the SPAC, and Bill Miller and Dennis Schultz.

The commissioners and staff discussed the no shooting zone issue. Josh Peters stated that his understanding was that it would not be a UDC code amendment; it would actually be another part of the code. Staff displayed a map depicting the existing no shooting zones and two proposed zones. The commissioners discussed forming a committee on the issue. Peter Downey stated that something to be considered was the density in the area being considered. He thought that areas that were fairly dense should not allow shooting. But in areas with larger parcels, he thought imposing a no shooting zone on everyone in those areas seemed too stringent. Bud Schindler stated that some areas, like Olympic Canal Tracts, had covenants that prohibited shooting. He wondered whether such areas should be added as no shooting zones. Mr. Peters stated that, in general, the county did not enforce CC&Rs of homeowners associations. If we established a no shooting zone there, it would then be enforceable by the county. Dennis Schultz pointed out that a detail was that there was no provision in the existing ordinance for the humane slaughter of livestock.

The Chair offered a public comment period but the lone audience member did not wish to make further comments.

The commissioners returned to the no shooting zone issue and whether to form a committee on the issue. Jim Hagen stated that the issue had been directed to the Planning Commission, and it appeared there were several issues to be considered. He thought a committee was warranted for the short term. He asked about scheduling committee meetings, since the Planning Commission apparently would have a few committees active. Josh Peters suggested that the committee members work with the secretary to arrange the best day and times for committee meetings.

Henry Werch and Dennis Schultz volunteered to be on a No Shooting Zone Committee. Jim Hagen stated that he was willing to attend as well, unless Mike Whittaker or Edel Sokol wished to be on the committee instead. Josh Peters offered the opinion that, hopefully, the no shooting zone issue would probably not take a lot of committee meeting time.

**D. ADJOURNMENT**

Josh Peters offered a clarification to the April 5 minutes where he had said the staff was ridiculed for offering the 50% perimeter criteria for Rural Residential rezones. He clarified that he was talking about an applicant's attorney; it had nothing to do with the Planning Commission.

The meeting was adjourned at 9:30 p.m.

**E. APPROVAL OF MINUTES**

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

\_\_\_\_\_  
Jim Hagen, Chair

\_\_\_\_\_  
Cheryl Halvorson, Secretary