

JEFFERSON COUNTY PLANNING COMMISSION

MINUTES FOR OCTOBER 18, 2006

- A. OPENING BUSINESS
- B. PUBLIC HEARING - AMENDMENT TO JCC 17.05, MASTER PLANNED RESORT CODE,
MLA06-185
- 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, Bill Miller, Henry Werch, and JD Gallant.

DCD staff present were Al Scalf, Brent Butler, Barbara Nightingale, and Cheryl Halvorson, secretary.

There were about twenty-five (25) members of the public present. Those who signed the guest list were Diana Smeland of Port Ludlow Associates, David Goldsmith, George M. Hansberry, Joe Hunl, Ken Avicola, Ron Thompson, Karen Jensen, Gail Paine, John Paine, Mark Pearson, Larry Nobles, Tom McCay, Randy and Cindy Duhon, Kathy and Sterling Couch, Don Millbauer, and Dick Timmerman.

The minutes for October 4, 2006, were approved as submitted.

The Chair invited staff updates.

Al Scalf updated the commissioners on the LUPA ruling regarding Security Services Northwest. Another current court case had to do with the county's political signs regulations. An injunction was granted to prevent the county from enforcing its regulations. He stated that the issue would come back to the Planning Commission in December or January for further review and modifications to the code.

Al Scalf reported that Senior Planner Josh Peters had accepted a position with the county Public Works Department as a transportation planner effective on December 1.

Brent Butler reported that there was a conflict between the UGA Committee meeting on October 25 and the Sewer Plan public meeting. He suggested that the UGA Committee meeting be cancelled. The committee members agreed with his suggestion.

Brent Butler reported that the BOCC had adopted the Housing Needs Assessment and Action Plan. The County and City would be recruiting for the HAPN committee beginning on October 25. He also announced that there was an opening on the Housing Authority as well.

Jim Hagen suggested, as a means of public outreach, that it be announced at the UGA sewer meeting that the Planning Commission UGA Committee was meeting.

The Chair invited committee reports.

Peter Downey reported on the Shoreline charrette on October 12 to 14. He stated that one of the things they would be dealing with was how to make policy without having complete science. He reported that the STAC would be meeting another one or two times and the SPAC would be meeting as well. Then in February or March, 2007, there would be another charrette. Al Scalf and the commissioners discussed the state grant funding for completing the Shoreline Master Program update.

Bill Miller reported on the UGA Committee meetings. He reviewed the tasks the committee would be addressing. They were looking into the issue of mixed use, which was not in the narrative. Edel Sokol asked what Comp Plan

amendments were under consideration. Mr. Miller explained the issues in the tasks that would require Comp Plan amendments in more detail. It was all related to a Hearings Board order on the UGA.

Jim Hagen reported that the BOCC had approved the Critical Areas Committee's request for more time. Al Scalf reported that the county's contract attorney had been instructed to contact WEC's attorney to see if they would be willing to accept the extension. Mr. Hagen reported on the committee's activities and the issues addressed.

Dennis Schultz reported on the CA Committee's Fish and Wildlife Subcommittee's meeting. They realized that most of this county was Commercial Forest which came under the RCW's for forest practices, which addressed the critical areas issues. There was actually a very small portion of the county that fell into the category of fish and wildlife habitat areas, with the exception of those areas along the streams, which would be covered by the wetland buffers area. He described the issues they wanted to review further.

Peter Downey reported that he had attended a meeting of the Puget Sound Partnership. Their draft report was currently out and they were soliciting comments on it.

The Chair invited general public comments. There were none received.

B. PUBLIC HEARING - AMENDMENT TO JCC 17.05, MASTER PLANNED RESORT CODE, MLA06-185

Jim Hagen opened the public hearing by reading the hearing procedure. The secretary listed the materials and comment letters that were handed out.

Barbara Nightingale provided a staff presentation on the proposal. Included in the staff report of October 17 was an analysis of the impacts of three alternatives that had been suggested. She suggested that the Planning Commission continue the public hearing to the November 1 meeting date in order to allow additional public comments since the other two alternatives had not been advertised.

Barbara Nightingale stated that alternative #1 was to delete the sentence "Existing subdivisions shall not be further subdivided." The staff analysis indicated that 822 additional lots could be created under that proposal. The second alternative, also proposed by the proponent, would add a date of January 1, 1960, after which there would be no further subdivisions. That alternative could create 52 additional lots. The third alternative, also proposed by the proponent, would add language stating "Existing subdivisions shall not be further subdivided, except for lots, tracts or parcels of record established on or before January 1, 1950; provided said lots, tracts or parcels shall not be further subdivided into a total of more than three lots, tracts or parcels." That alternative would only encompass the Ludlow Beach Tracts platted before January 1, 1950. That alternative could create 26 additional lots.

Barbara Nightingale stated that the staff analysis of existing subdivisions indicated that 2059 MERUs had been used from the 2250 MERUs available, leaving 191 unallocated residential MERUs.

Barbara Nightingale displayed several overheads of some of the staff documents provided to the commissioners.

Barbara Nightingale introduced David Goldsmith, the representative for Mike Holland, the proponent for this application.

David Goldsmith provided some history on the reason for the proposal. He stated that they were trying to get equitable relief for the Ludlow Beach Tracts parcels that were inside the Port Ludlow MPR boundary.

David Goldsmith explained their last proposal (Alternative #3). He stated that their intension was only to provide relief to those tracts that had never been altered previously. He reviewed the parcels that had been previously altered, stating that they would not be eligible for further subdivision under this alternative. Mr. Goldsmith reviewed the five tracts that would be eligible for further subdivision. They were Tracts 2, 5, 7, 8 and 10. If all of those five tracts were further subdivided under the third alternative, there would be an additional ten (10) lots created. He stated that he did not know if those other property owners would be interested in subdividing their tracts. He stated that he did not know if critical areas concerns would place further limits on subdivision of those tracts. That consideration would occur during the subdivision process.

David Goldsmith referred to the PLA letter that expressed concerns about the MERU cap. He stated that the MERUs were allocated on a first come, first served basis. Mr. Goldsmith stated that the Holland property currently had three sewer connections available on the property. He stated that, in fact, there were three residences on the Holland property [two tracts]. However, under the current regulations, they could not divide the property even to allow each of those residences their own parcel.

David Goldsmith stated that he had talked with a neighboring property owner who was concerned about the amount of development that might occur. During the conversation he had indicated that he would be willing to talk to the community about the proposal.

Peter Downey asked if their intention was to withdraw the first two alternatives and only consider the third alternative. David Goldsmith replied that they wanted to create language that would limit the amount of further subdivision that might be allowed. There were unintended consequences with each of the first two alternatives which could allow the creation of too many lots and that made no sense. So, Alternative #3 effectively applied to only five tracts and would limit the amount of additional lots that could be created. Al Scalf stated that the first alternative was the subject of the public hearing. Therefore, the Planning Commission had to consider it. However, it was an iterative public process whereby the commission could consider all of the alternatives and even create another alternative. Henry Werch summarized that, for the Planning Commission's process, it should be recognized that the proponent was not asking for the first two alternatives; their third alternative was the one the proponent favored. Under a full range of alternatives, the Planning Commission could consider all three current alternatives, create a fourth alternative, or even disapprove any change to the MPR Code.

In answer to Jim Hagen's question, David Goldsmith explained when the earlier platting occurred on some of the Ludlow Beach Tracts. Al Scalf explained the effective dates of the Comprehensive Plan (1998) and the MPR Code (1999).

Barbara Nightingale stated that the third alternative would limit any further subdivision to a maximum of three lots for each previously unaltered tract. As an example, the two tracts owned by Mr. Holland could be turned into a total of six parcels (four new lots).

David Goldsmith discussed the size of the Holland tracts, the topographic limitations, and the possible building sites.

Edel Sokol asked about the salmon stream and its effect. David Goldsmith stated that he had not seen the letter. He stated that he did not know if the photo that was provided showed the stream. Al Scalf stated that staff could provide the critical areas map with the stream type. Mr. Goldsmith stated that any critical areas considerations would not occur until an actual subdivision application was received.

After a short discussion about continuing the public hearing, Edel Sokol moved that the Planning Commission continue the public hearing along with the written comment period to the November 1 meeting. Bud Schindler seconded the motion.

Henry Werch stated that he supported the motion. He also supported the proponent holding a community meeting as proposed in order to educate the community.

The motion carried unanimously (9-0-0).

The Chair opened the hearing to public testimony, noting that written comments and further oral testimony had been continued to the close of the hearing at the November 1, 2006, Planning Commission meeting.

Diana Smeland stated that she represented Port Ludlow Associates. She stated that she had met with Mr. Goldsmith and understood the 10-lot increase, not the 26 or 52-lot increase. However, the proposal still concerned them. She stated that the MPR Development Agreement came about as a result of the community's request. The community's concern was that the MPR would sell and/or develop its plats but that the future owners would come back and re-subdivide those plats, thus creating much higher density than was originally intended. She stated that PLA was guided by the Development Agreement. If the county made a change to the MPR Code, the county would have to recognize the differences between the two, where before they were very similar. She stated that there was one difference that had occurred in the last couple of years. But before that, they were literally the same. The other concern was that, since they put that in for the community, it gave the community the ability to have a more stable community. She stated that there had been talk about CC&Rs. She stated that, while CC&Rs were in place, the county did not enforce them. They thought it was better if the limitation was in the regulations so that the county would enforce it. While she understood that a mistake was made in 2000, it did not mean the regulations should be changed. She stated that PLA had an opportunity to buy the Holland lots prior to his purchase of them. When they did their due diligence, they saw that they could not subdivide them further. If they had known they could get the ability to further subdivide them, they likely would have purchased the tracts. She stated that they understood that the MERUs were on a first come, first served basis. However, when they looked at the MPR Code and the Development Agreement and they looked at who had interest in the land, they knew that they could develop about 450 of those units. So when they

purchased the land from Pope Resources in 2001, they factored into the purchase price the amount of development they could expect after looking at the rules that were in effect at that time. She stated that, while this proposal would allow ten additional lots to be created and that did not sound like much of an impact, the ten would have an economic impact on them. Therefore, they felt this change would damage PLA. She stated that their recommendation was that the Planning Commission should deny this application.

Ron Thompson stated that he lived in one of the areas that were in fairly large lots. When he saw the notice in the paper and that it referred to property not owned by PLA, he started wondering if it would apply to his property. He thought the topography would probably discourage it. He stated the opinion that land had gone up in value more than houses, which could create an incentive for people to subdivide if it was possible. He stated that he was particularly opposed to Alternative #1. He thought it would create a lot of unintended consequences. He stated that he had no opinion on the Ludlow Beach Tracts properties; he knew very little about them. He stated that he was president of the Woodridge Association. He stated that if it went to two or three lots, it was probably a moot point, and they would probably not be as concerned. His concern was with the consequences of what a change in the regulations might do.

Mark Pearson, Ludlow Bay Road, stated that as someone who had owned their property for several years, they appreciated that Port Ludlow was growing. He stated that they liked what was there. He stated that when Mr. Holland bought that property, they knew what the rules were and they should live under those rules.

Randy Duhon, Ludlow Bay Road, stated that he owned Ludlow Beach Tract 2, which was just beyond the proposal area of the MPR. He was confused about the wording of the proposal [Alternative #3]. He expressed concern about what the future would hold if this proposal was enacted. He wondered if he would have to worry about someone else in the future proposing another change to the code that would allow Ludlow Beach Tract 2 property to be further subdivided. While he knew this proposal did not apply in their situation, in the future someone could subdivide his neighbor's land on both sides of his property. He stated that his lot was only 100 feet wide and was 400 feet long. He stated that further subdivision of neighboring properties would impact his property in a negative way, not to mention the aesthetic impacts. He stated that they had a lot of big trees on Ludlow Bay Road and further subdivision would require cutting of a lot of those trees.

There was no other public testimony received.

Jim Hagen reiterated that the public hearing would be continued to the November 1 Planning Commission meeting.

An audience member asked if the continued hearing would be advertised. Al Scalf stated that staff would advertise the continuation and describe the three alternatives and that written comments would be accepted until the close of the hearing on November 1.

Bud Schindler asked about the discrepancy between staff's analysis of Alternative #3 creating another possible 26 lots versus Mr. Goldsmith's assertion that 10 additional lots could be created. Barbara Nightingale responded that the issue would have to be discussed in terms of the exact language of the proposal and the effect on subdivisions. Al Scalf stated

that staff would do that during deliberations with the Planning Commission after the close of the public hearing. Mr. Schindler asked if there was a possibility for another option that would increase the square footage to 6500 or 7000 square feet such that you could only divide those lots into two parcels instead of three. David Goldsmith responded that the Single Family zone was four units per acre, which amounted to 12,500 square feet. But then the code went on to say that no lot may be less than 5,000 square feet. He pointed out a nearby subdivision where a couple of lots were less than 10,000 square feet, but it was allowed because a big portion of the plat was dedicated to open space. As an example, you could have a 1-acre parcel divided into three 5,000 square foot lots and the rest in open space. That was the way the code was currently written. Mr. Goldsmith stated that, instead of changing how all of the Single Family zone was set up, they were trying to create an exception for those existing lots. Mr. Schindler stated that he understood that, but if there was a lot of community opposition to the proposal, he wondered if there had been any consideration to limiting a single tract being divided into two rather than three. He wondered whether that might be an Alternative #4. David Goldsmith stated that the whole issue was equity. He stated that it may be that Mr. Holland could only get two lots from one tract, but it was technically not just Mr. Holland's property; it was all five of those tracts owned by four owners.

Edel Sokol asked if we had heard from the other property owners. Barbara Nightingale replied that she had received some phone calls from some property owners on Ludlow Beach Road and they were concerned.

Dennis Schultz and Barbara Nightingale discussed the staff analysis of the possible lots that could be created. Bud Schindler expressed confusion about the 26 lots number and how it related to the 10 lots number. Ms. Nightingale displayed the overhead of the analysis chart. She stated that staff was not sure that certain lots could not be further subdivided; it was a legal question that needed to be answered. She cited the particular lots in question. Mr. Schindler stated that there was a difference of opinion that was confusing. He suggested that the staff and commission arrive at a consensus about what it meant before the commission could move on. Peter Downey offered the opinion that, if there was a legal issue involved, we should receive a legal opinion from the county attorney about the proposed language before the Planning Commission could move forward. The 26 lots versus 10 lots was a key issue.

Edel Sokol asked that the interested property owners be notified.

An audience member asked if the zoning would allow town homes or if it only allowed residences. Al Scalf responded that the zoning was Single Family so town homes would not be allowed.

An audience member asked if ADUs would be allowed. Al Scalf replied that the MPR Code did not allow ADUs inside the MPR. The audience member stated that there were several ADUs along Ludlow Bay Road in those lots. Jim Hagen asked if they were grandfathered uses that were legal nonconforming uses. Mr. Scalf replied that was correct; they predated the zoning code.

Larry Nobles stated that the zoning code and the MPR designation covered everything in the MPR. However, the Development Agreement did not because Pope Resources (now PLA) and the county were the signatories to the Development Agreement. He stated that none of the public owners came under the Development Agreement because they were not signatories to it.

Therefore, they did not come under the development standards designed on the part of the developer. Al Scalf responded that private property owners were not subject to the Development Agreement because that was for PLA-owned property only. But they were subject to the MPR zoning code (JCC Title 17).

Jim Hagen noted that the next item on the agenda was a discussion and/or recommendation to the BOCC on this issue. However, he thought it was premature to do so until the commission had more information and heard from the public at the continued hearing.

Peter Downey moved that the Planning Commission continue any decision until after the public hearing on November 1. Mike Whittaker seconded the motion.

Jim Hagen stated that the discussion and recommendation could follow the close of the hearing on November 1 or it could occur on November 15.

Bud Schindler asked for further analysis of the possible lot counts. Edel Sokol asked for a map showing the stream as well.

Bud Schindler asked if it was possible to consider the ability to create five new lots instead of ten, particularly if there was a lot of opposition to ten lots. David Goldsmith responded that idea could be part of the Planning Commission deliberations.

The motion carried unanimously (9-0-0).

Mike Whittaker asked about doing a site visit. Staff indicated that the commissioners could do a site visit but the commissioners should not have a quorum present.

C. ADJOURNMENT

The Chair invited general public comments.

George Hansberry asked about the No Shooting zones that were mentioned in the minutes. Henry Werch provided information on the Planning Commission committee's work on the issue and that its recommendation had been forwarded to the BOCC. The BOCC had subsequently instructed staff to prepare ordinance language. He explained that it had to do with the process by which future no shooting zones were created and not with creating any particular no shooting zone. Al Scalf stated that it related to Title 8 of the JCC. He described areas that currently had designated no shooting zones. He stated that there would be a public hearing before the BOCC within the next month on amendments to Title 8.

The agenda for the next meeting will be the continuation of the public hearing on MLA06-185 with possible deliberation and recommendation.

Al Scalf addressed the question about future amendment proposals. He stated that, similar to this proposal, it was possible that further amendments to the zoning code were feasible in any given year. He stated that it was the process that any citizen could make application to the county. It would go through a public process before the Planning Commission. Randy Duhon asked if this proposal would establish a precedent for future development and whether anyone could apply to change the code again and change the date again. He stated that, while his property was not affected by this proposal, he was concerned that a future proposal could affect him. Peter Downey

pointed out that Mr. Duhon's property was outside the MPR boundary, so this proposal would have no effect. The zoning outside of the MPR was likely Rural Residential 1:5, so any zoning change would have to come through the normal process through the county for a downzone. He stated that there were currently no provisions in the county for less than 1:5 residential zoning, so this proposal would not set a precedent. Jim Hagen stated that RR 1:5 had been established statewide as the rural residential standard. Mr. Scalf clarified that was for future subdivisions. However, legal lots of record were buildable provided they met health requirements even though they were substandard to five acres.

The meeting was adjourned at 8:10 p.m.

D. APPROVAL OF MINUTES

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

Jim Hagen, Chair

Cheryl Halvorson, Secretary