

JEFFERSON COUNTY PLANNING COMMISSION

MINUTES FOR DECEMBER 6, 2006

- A. OPENING BUSINESS
- B. DISCUSSION AND/OR RECOMMENDATION TO BOCC ON 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, Bill Miller, Henry Werch, JD Gallant, Mike Whittaker, Edel Sokol, and Peter Downey. Bud Schindler was excused.

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

There were four members of the public present. Those who signed the guest list were Larry Nobles, Tom McCay, and Michael Holland.

The minutes for November 1 and 2, 2006, were reviewed and corrected to reflect that Edel Sokol was present at the November 2 site visit in Brinnon. The minutes were approved as corrected.

The Chair invited staff updates.

Brent Butler reported that staff was currently working on a draft sign code.

Brent Butler reported on the adopted budget for 2007 which would add a full time position in Long Range Planning for a Planning Clerk to replace Ms. Halvorson, who was retiring. The position would be split between the Planning Commission and LRP. In addition, a full time wetland scientist was approved for permit review in DRD. Also, the department was recruiting for a Lead Planner in LRP to replace Josh Peters. He reported that the DCD fee schedule was currently under review.

Brent Butler reported that he and Stacie Hoskins, DRD, had attended FEMA training in Washington, DC on flood damage prevention. He reported on the studies and plans that had been adopted by the county that would result in a higher rating for the county flood insurance program.

Brent Butler reported on a new county permit rating system that would be useful for people thinking about buying property. It addressed potential difficulty for development. He stated that an introduction workshop to the program for realtors would be held on Tuesday, December 12. Jim Hagen asked about how the critical areas maps would be integrated into that program, given that the maps were inaccurate. Mr. Butler explained that the county would be working with the GIS division to update the mapping. He also thought the work of the Critical Areas Committee would contribute as well. He stated that the rating program would not be fool proof, but it would be an indication of the constraints on the property.

Jim Hagen stated that he had read in the paper that the county had taken the \$25,000 in the budget for economic development and would put it into the DCD budget to handle economic development for the county, since the contract consultant had experienced an employee turnover. Brent Butler responded that it was under discussion. He thought it also related to the affordable housing issue.

Edel Sokol asked if that meant that the county would take away some of the regulations that were making housing more expensive. Brent Butler replied that was an action item in the Housing Action Plan. While there were state regulations that the county could not do anything about, there were other

things the county could do. Ms. Sokol stated that she had a report that laid out how regulations affected affordable housing.

Brent Butler invited Planning Commission representation on the HAPN [Housing Action Plan Network] committee, which would begin working in February.

Brent Butler reported that the county had not applied for the CDBG grant to implement the Housing Action Plan that had been the topic of a Planning Commission hearing at the [November 15] meeting that was cancelled because of the storm. Edel Sokol and Mr. Butler discussed older housing in the county and rehabilitating such houses versus demolishing them and re-building. Ms. Sokol offered the opinion that older housing in Port Townsend was no longer affordable, citing a recent sale of a beautiful older brick home for \$650,000 which was subsequently demolished. Mr. Butler addressed the amount of affordable housing in the county and the regional distribution of that housing, citing information from the Housing Action Plan. He stated that it was found that 80% of the affordable housing in the county was located in Port Townsend. Peter Downey stated that there was substandard housing out in the county that was also being used. Ms. Sokol offered the opinion that the housing grant was not appropriate for this county; she thought it was more appropriate for places like Seattle. Mr. Butler responded that we did not file the grant application because we did not have the required public hearing and discussion about it. Jim Hagen stated that the timing of the hearing was unfortunate, coming so close to the grant application deadline. In the future, he hoped such a hearing could be scheduled in such a way that, if it was necessary to cancel it as happened in this case, there would still be enough time to hold a hearing in advance of the grant deadline.

Jim Hagen addressed the campaign sign size issue, stating that it resulted from one citizen's email suggestion. It was pointed out that the Planning Commission received the email in question and it was in the draft language of the UDC that the Planning Commission reviewed. While it may have slipped by the Planning Commission's review, it was not something that was added later.

The Chair invited committee reports.

Bill Miller reported on the UGA Committee meeting. He stated that the Transportation element needed further work. Also, staff was to research stormwater plans from other counties. Edel Sokol asked if there was anyone from the Tri Area at the committee meetings. Mr. Miller replied that there had been a few people, but they had stopped coming. Mr. Miller stated that the UGA Committee would continue meeting through January and February. Brent Butler stated that it was likely that the Planning Commission would hold a public hearing on the committee's work in about March in order to comply with the Hearings Board order timeline. Ms. Sokol recommended that the Planning Commission hold two hearings on the issue and do additional outreach to the public, similar to what was done before.

Peter Downey reported that the SPAC [Shoreline Policy Advisory Committee] meeting had been cancelled due to inclement weather. The next meeting will be on December 13.

Jim Hagen reported on the Critical Areas Committee's activities. The full committee was receiving reports from some of its sub-groups. Dennis Schultz reported that the fish and wildlife sub-group was recommending that the county follow the DNR guidelines for wildlife because most of the areas of concern were along the waterways, which were already addressed under the DNR

categories. For species of local importance, he stated that the sub-group proposed a procedure whereby an individual, an organization, or a government organization could propose a species or an area be designated as being of local importance. They included a long list of criteria to be met with ultimate approval by the BOCC. Mr. Hagen stated that the committee would receive a report from its wetland sub-group at its meeting on December 7.

Jim Hagen stated that the BOCC held a public hearing on the No Shooting Areas issue that drew 100 to 200 members of the public. He stated that one County Commissioner intimated that the issue would be sent back to the Planning Commission for further review. Henry Werch stated that the overwhelming public sentiment was opposed to the proposed ordinance language, that it represented over-regulation of their right to maintain arms. He thought a lot of questions were raised as to why the proposal was so far removed from what the Planning Commission had suggested. He thought the issue would come back to the Planning Commission for further work. Mr. Hagen thought the value was that, when the Planning Commission had two meetings on the issue, there was a total of two people in attendance. Then when the BOCC held their hearing, there were 150 to 200 people. He wished the Planning Commission had had that input.

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

**B. DISCUSSION AND/OR RECOMMENDATION TO BOCC ON AMENDMENT TO JCC 17.05, MASTER PLANNED RESORT CODE, MLA06-185**

Staff handed out a staff report/memo dated December 6 and a map highlighting the five tracts that could potentially be affected.

Barbara Nightingale discussed the two options outlined in the staff memo and their implications. She reported that the Deputy Prosecutor had reviewed the two options and was comfortable with either of them. Option #1 would allow each of the affected tracts to be divided into two parcels (for a total of five potential additional lots). Option #2 would allow only the one tract that currently had two houses on it to be divided into two lots. Henry Werch stated that it should be noted that even with the subdivision, it did not mean that the lots would be buildable. Ms. Nightingale agreed that was correct. She stated that she could provide information on the subdivision process that addressed protection of critical areas. Ms. Nightingale stated that the county would not allow a subdivision to create unbuildable lots. She stated that, given the size of the affected lots, they could be divided in such a way to allow build-ability while still protecting the sensitive areas. Cheryl Halvorson pointed out that there was a third option - to deny the application and make no changes to the code.

Dennis Schultz moved that the Planning Commission recommend adopting Option #1 from the December 6 staff report/memo. Peter Downey seconded the motion.

Dennis Schultz explained that the argument was that, of the fourteen lots in Ludlow Beach Tracts, nine had already been subdivided. As an issue of fairness, he thought the other owners should also have the opportunity to subdivide, if they chose to do so. He stated that when the Planning Commission had considered rezoning applications, it had always looked at the size of properties around the pertinent parcel. He thought this fell within that same type of reasoning. In fairness, he thought we should allow them to subdivide.

Jim Hagen stated that he could not support this change unless something drastic came up that changed his mind. He stated that the character of the surrounding properties came into play for zoning changes, which was reflected in the criteria for zoning consideration. In this case, currently, subdivision was prohibited. He thought that was different from something in the code that allowed for a change, like site specific Comp Plan amendments. He stated that he was not against amending a prohibition. However, the commission had heard a tremendous amount of opposition. He pointed out that one of the growth management indicators was whether the amendment reflected current widely held values of the residents of the county. He stated that the comments the Planning Commission had heard were unanimous in their opposition.

Mike Whittaker stated that he did not know that it was particularly inequitable. He offered the opinion that people did not know what the options would be. They did not know if there would be multiple dwellings or condos or what kind of development there might be. Consequently, the public was against it. Conversely, when people received information that they could support, they tended to not come forward in support. He did not think you would have an equal weight in the public input.

Peter Downey stated that he was initially opposed to what was proposed because the potential impacts could have been much greater than this current proposal [Option #1]. He stated that he did not want to see a lot of small lots. He did not think that was what the current proposal would allow. He stated the belief that this proposal responded to the public's, and his, concern that the neighborhood character not be changed.

Dennis Schultz thought this proposal was handled poorly because of all the housing numbers that had been discussed as possible, anywhere from 30 to 70. He thought that if the Planning Commission had had a clear cut definition of a way to do this, the commission would not be in the situation it now found itself in.

JD Gallant supported Mr. Hagen's position. He thought the obligation should be on the developer to some degree to get the public behind the proposal. He did not see a single comment in support. He thought it was the Planning Commission's obligation to consider the public. He realized this was a small community. He felt strongly that when the entire community appeared to oppose the proposal, the commission should listen to that. He thought the developer had some responsibility to recruit some support. He stated that he saw no support in the community for this proposal, so he could not support the motion.

Henry Werch stated that, as much as he supported public input, especially for zoning changes or zoning variances, what he was looking for and did not find was a convincing statement by the petitioner that a hardship was created when the land was purchased because somehow the restrictions on subdividing were obscured or not available. However, he did not hear a case for that. He expressed concern about setting a precedent for similar situations elsewhere in the county (where smaller lots were close to larger lots). While he was not saying a case could not have been made to sway him, he was saying that such a case had not been made. That was why he preferred the No Action option (to deny the application).

Dennis Schultz thought that if the initial application had been to merely divide each of the lots into two, we would not have gotten into the situation

we did. He felt the situation got out of control and had just not been handled right. He did not think there would have been the outcry if people had understood what they wanted to do in the beginning. People had been frightened by the thought of condos and small lots going in that area.

Mike Whittaker stated that when he and Bud Schindler visited the area, they came across a neighbor who indicated that she would not have a problem with it. If a nearby neighbor had no problem, he had difficulty listening to people who were further removed from the lots in question. He stated that the Port Ludlow community or PLA had put the language into the code even though it affected lots that had nothing to do with the MPR development. He thought there was some inequity there.

Edel Sokol supported Mr. Hagen's position. She stated that there was a prohibition on that little community from subdividing. That was what she kept hearing from the public - that there was a prohibition. She stated that Mr. Holland knew when he bought the property that there was a prohibition. She thought that should stand.

Peter Downey stated that there was nothing in the title search that prevented these properties from being subdivided. He stated that the zoning was 4:1, so he could see where someone would think they could subdivide it. Also, there had been a subdivision allowed, even though it had been done in error. While he agreed that the county had done it by mistake and we should not perpetuate a mistake, he thought at the same time that the whole thing was just mishandled.

Bill Miller stated that some of the lots had been divided by estate segregation, stating that they could always be divided in that way. There was nothing that would prevent that from happening again with those lots. He admitted that the owner would have to die first, however.

Jim Hagen stated that he had always taken Mr. Holland's intentions as honorable in his deliberations. He stated that it seemed to him that most of the subdivisions had been done before the MPR Code was adopted. He stated that he would have sympathy for someone who had purchased property under regulations that would allow subdivision and then the regulations were changed to prohibit subdivision later. That was not the case in this instance. The due diligence on the purchase would have revealed that there was a prohibition on subdivision. He noted that the PLA representative had said that they would have purchased the property if they could have divided the land, but they did not because of the prohibition.

Dennis Schultz stated that you must remember that the subdivision regulations were put in to protect the resort. He stated that these properties were tagged onto the MPR for one reason only, because they were on the sewer system. He thought those lots were kind of orphans in the community.

Mike Whittaker stated that there was no question in his mind that those lots would be built on because they were beautiful lots. He thought it likely that someone would buy those lots, demolish the existing houses, and build a new house.

Dennis Schultz stated that it was really a question of fairness.

The motion to recommend Option #1 failed with three in favor and five opposed [3-5-0].

JD Gallant moved that the Planning Commission recommend the No Action alternative. Edel Sokol seconded the motion.

Henry Werch supported the motion. He thought that those who made the case that could justify further subdivision had made a good case. However, he was not comfortable with it being the right one. He stated that the effect of Option #2 would establish a regulation that would impact only one lot. He wanted to leave the door open for some other future action by taking the No Action option.

Jim Hagen stated that, in fact, the motion would be recommending denial of the request. Therefore, it was not a No Action motion; it was a denial. The commissioners discussed whether the motion ought to be withdrawn or amended in order to clarify it.

JD Gallant withdrew the motion in order to make another, clarified motion.

JD Gallant moved that the Planning Commission recommend denial of the proposal. Edel Sokol seconded the motion.

Peter Downey stated that he thought Option #2 should not be recommended because it would affect only one lot.

Bill Miller clarified that what the motion was saying was that we would not change the MPR Code. It was agreed that was the intent.

The motion to deny the proposal carried with five in favor and three opposed [5-3-0]. The three members who were opposed indicated that they would do a minority report to the BOCC.

#### C. ADJOURNMENT

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

The commissioners discussed canceling the December 20 meeting.

Edel Sokol moved to cancel the December 20 meeting. JD Gallant seconded the motion which carried unanimously [8-0-0].

It was agreed that staff would prepare a Planning Commission recommendation report to the BOCC on the MPR Code proposal and the Chair would sign it. It was agreed that the minority report should accompany the full Planning Commission report to the BOCC. Staff thought the report would go to the BOCC in early January, necessitating both reports being ready about Christmas.

The meeting was adjourned at 7:50 p.m.

#### D. APPROVAL OF MINUTES

These minutes were approved this \_\_\_\_\_ day of January, 2007.

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Jim Hagen, Chair

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Cheryl Halvorson, Secretary