

Lewis County Planning Commission

Public Meeting

Lewis County Courthouse, 2nd Floor
Commissioners' Hearing Room
351 NW North Street
Chehalis, WA 98532

May 12 and 13, 2009 @ 7:00 P.M.

AGENDA

- I. Call to Order**
 - A. Introduction of Planning Commissioners (roll call)

- II. Old Business**
 - A. Approval of meeting notes from April 28, 2009
 - B. Workshop to review Agricultural Resource Lands Designation maps

- III. Calendar**

The next meeting will be May 19, 2009

- IV. Good of the Order**

- V. Adjourn**

**Lewis County Planning Commission
Lewis County Courthouse
351 NW North St.
Chehalis, WA 98532**

**May 12, 2009 – 7:00 P.M.
Meeting Notes**

Planning Commissioners Present: Bill Russell, Bob Guenther, Mike Mahoney, Rachael Jennings, Arny Davis

Planning Commissioners Excused: Richard Tausch

County Commissioners Present: Bill Schulte

Staff Present: Phillip Rupp, Barbara Kincaid, Glenn Carter, Pat Anderson

Consultants Present: Andy Lane, Cairncross and Hempelmann; Mike McCormick; Stan May, BHC Consultants

Others Present: Please see sign in sheet

Handouts/Materials Used:

- Agenda
- Meeting Notes from April 28, 2009
- Prime Soils Maps

I. Call to Order

Chairman Jennings called the meeting to order at 7:03 P.M. The Commissioners introduced themselves.

II. Old Business

A. The Chair entertained a motion to approve the meeting notes from April 28, 2009. Motion made and seconded and carried unanimously.

B. Chairman Jennings opened the workshop on Agricultural Resource Lands and stated she had a request from Commissioner Russell to start at the County's east end maps as he will be unable to attend subsequent meetings.

Mr. Andy Lane stated tonight the Commission would look at the issues identified at the last couple of workshops. There is a new set of maps that show prime soils, prime if drained soils and prime if irrigated soils. They also outline UGAs and show roads, but they do not show parcels or other information that appear on the previous maps.

Mr. Lane introduced Mr. Stan May, BHC Consultants, who would assist in projecting the maps on the screen.

One of the bigger issues that came up was the ARL proposed "islands". Another is timbered lands that are not designated Forest Resource Lands (FRL) that occur on prime farmland soils. When recommendations were made initially we assumed that the land that was timbered and currently in timber production was too expensive to convert to

agricultural use, and therefore assumed it was not capable of being used for agriculture. We have had testimony at public hearings that put that assumption in doubt and there is no evidence in the record that confirms our original assumption that this land could not be converted. As the Commission moves west through the maps there will be areas around I-5 that will need to be re-evaluated.

Commissioner Russell stated sustainability and accessibility are important factors as we study these islands.

Mr. Lane began with Map #18. He suggested the consultants and staff would point out items that may need to be discussed and the Commissioners should do the same.

Commissioner Mahoney referred to the color coding on the maps. The gray is prime soils, the yellow, pink, purple and orange are class 4, 5, and 6 soils. He asked if these are sub-classes as NRCS describes them. He understood that only sub-class 1, 2, and 3 are considered prime and that 4, 5, 6 and 7 are never prime: IIIw soils need to be drained and 4, 5, and 6 are usually too steep or too wet to be considered prime.

Mr. Lane stated NRCS has some Class 6 soils classified as prime if drained. The category of prime could apply to anything from 1 to 6. Certainly 1 through 3 is better for agricultural production, but as far as the NRCS classification system for determining prime soils –

Commissioner Mahoney stated when he read the manual the Class 4, 5, and 6 soils require such extreme managerial actions that they are not considered prime. He finds it difficult to include IIIe and IIIw as prime from a practical standpoint and the 4, 5, and 6 soils are wet.

Mr. Lane stated a memo dated April 1, 2009 distributed to the Planning Commission references specific federal regulations. That memo may clarify some of Commissioner Mahoney's questions.

Mr. McCormick stated the soils classifications were part of the other maps that the Planning Commission has been using.

Mr. Lane stated Map #18 has a few areas that have prime soils that are in timber production and were not initially considered in the recommendations. When we are looking at the timbered lands on prime farm land we are looking at only prime farm land that is not considered prime farm land only if drained or irrigated. The fact that there is timber on the property we assume it is not drained or irrigated. The only soils we are looking at in timber production are those on prime soils.

Commissioner Mahoney recalled testimony about this area being steep and quite wet. Is there anything here that is truly valuable for agricultural use?

Mr. Lane stated the parcels outlined in yellow were designated in 2007 and those bordered in red are being recommended this time. The recommendations are made by looking at the uses on the ground and applying the criteria. To the extent that the criteria suggests it should be ARL is the reason for its inclusion.

The area above Bennett Rd has smaller parcels that are prime soils and there are some trees on them but the parcels are only 5 acres. One criterion in the WAC is predominate parcel size. We have worked with a general rule that a minimum of a 20 acre parcel size will be considered. We would not recommend those small parcels for ag designation.

Moving further east on Highway 12 near Bevin Rd. there are small parcels and none of this area was considered, even though they have prime soils.

Commissioner Russell asked about the area on South Cline Rd. Part of it has already been designated and there is a smaller area now being considered. He asked what the difference is between those two. He stated regardless of what the soil was previously, that soil is not there now or there is additional soil on top of it due to the flooding. He asked how the pink portion would need protection and yet there is no concern about the gray portion.

Mr. McCormick stated the area in pink does not require protection but requires irrigation to be prime. He believes this area might be a little higher and would not have the water table that is found nearer the river and that is the basis for the distinction. Mr. McCormick stated when we are talking about soils that have agricultural activity for the purposes of the designation, we are not distinguishing between those that are prime soils and those that are prime if irrigated or drained; those are all treated the same. When we look at prime soils with timber we are making a distinction between those.

Commissioner Russell stated he is not opposed to that area being designated ag; there is active agricultural activity there at this time.

Mr. Lane stated Commissioner Russell's comment about the soils no longer being the same is noteworthy. We are working from the soils map that the NRCS made in the 1980's and we have no other information with which to work. There are provisions in the code that if a property owner can produce reliable information showing the soils on the property now are different than what NRCS states they are, a correction can be made.

On Map #17 the area between Butler Rd (it is actually Cispus Rd) and Spears Rd had been discussed previously. It is unknown if there is a conservation easement on it; it is owned by the City of Tacoma. Discussion followed. Commissioner Mahoney did not think it should be included for several reasons. Mr. Lane asked for specific reasons so they can be addressed in terms of the criteria and the soils definition.

Mr. Lane stated it is prime if drained and Commissioner Mahoney stated it cannot be drained because it is under water all year.

Mr. McCormick stated the factual information shows that it can be cultivated and he is concerned about taking it out without having something more definitive.

After further discussion, Mr. Lane stated an option is to maintain the area that has an active farm.

Mr. McCormick's concern is the overall consistency and the application of it and building a strong record when we go back to the Hearings Board.

Commissioner Guenther stated the evidence of the testimony should stand alone. He did not believe the Hearings Board would have a problem with only a portion of that area being designated.

Commissioner Russell spoke next about the area on the far left of Map #17 that borders the river. There is no access to this property.

Mr. McCormick stated a portion of this is forested, has prime soils and needs to be considered.

Commissioner Russell did not question the soil content. There is no way to get in or out of that property.

Mr. Lane stated this was included because it appeared to meet the criteria.

Commissioner Mahoney stated the criteria must be applied both ways. For a commercially significant farm you need road access and power.

Commissioner Russell stated with no road access and with the Cowlitz River flooding it every couple of years it would not be sustainable for commercial agriculture. He would not recommend it for designation.

A poll of the commissioners showed a consensus for it to be removed.

Mr. Lane stated it is important for the Growth Board to understand the analysis that has been put into the various parcels.

Another area to look at on Map #17 is the area bordered by Kiona Rd on the west and Peters Rd on the south. It is a large area of prime soils that is in timber production and it was not included in the previous recommendation. That area and the portion to the west of Kiona road are recommended for inclusion into ARL.

There was no discussion needed on Map #16.

Map #15a is a continuation of Map #17. Mr. Lane stated there are a lot of prime soils that follow the river that is in timber production and therefore was not included in the recommendations in 2007. It is not in FRL designation.

Commissioner Guenther stated it is not FRL now but several years from now if Port Blakely decides to sell the land, what would it be designated?

Mr. Lane stated if it still met the criteria for ARL designation it would be ARL.

Mr. McCormick stated it is currently RDD-20. FRL designation requires 5000 acre blocks.

The map does not show the area that is being recommended for ARL. The area covers portions of several large parcels. There is an 80 acre block, a 480 acre block and a 315 acre block, so there is a considerable percentage of ground that have prime soils.

Discussion followed. Mr. Lane stated we are not looking at ownership blocks; we are looking at parcels. The fact that any owner owns a majority of the land and overall only a small portion of it might be prime is not what we are looking at. We are looking at a parcel with a lot of prime soils on it. Of the parcels that have prime soils on them there are a lot of parcels with at least half in prime soils.

Commissioner Guenther believes we will have a difficult time answering to the Board if we disregard prime soils. It doesn't matter who owns it; it could be prime farm land in the future if it is converted.

Mr. Lane pointed out on the projected map where the boundary lines of the proposal are located.

Commissioner Russell suggested adopting the map itself as ag land rather than go by parcels.

Mr. Lane said the process being used so far has not split parcels, which would be a new approach for this map in particular.

Commissioner Mahoney stated he did not want to go that route. Everything else has been parcel by parcel.

Mr. Lane agreed.

Mr. McCormick asked if the Planning Commissioners would be comfortable if the consultants came back with a recommendation following the parcel lines associated with the description that Andy gave and consider that as the staff proposal.

Commissioner Mahoney did not want to designate it at all. He thought it would be best to leave it the way it is because of the lack of access and power and the fact that it is owned by a timber company and is growing timber.

Commissioner Russell stated there is an area that is an active farm and would not want that to be not designated to spare timberland.

Chairman Jennings asked the Commissioners if they wanted the consultants to illustrate this area on a map and they can discuss it further at the next meeting. The general consensus was to wait until the next meeting.

Chairman Jennings recessed the meeting and reconvened at 8:55 P.M.

Mr. Lane stated Map #15 shows some areas with prime soils and most of them have timber and are small parcels. Nothing new is being proposed for this map.

Map #14 has two parcels at the west end of the lake which covers about 800 acres with the majority having prime soils.

Commissioner Mahoney thought these were too steep to be considered prime.

Mr. McCormick stated the land does drop off along the lake.

Commissioner Mahoney did not think it should be designated for agriculture, given the location, the access and steepness of a large part of the parcels, as well as the ownership. The best use would be recreational; it will never be farmed. He thought there were transmission lines going through the parcels.

Mr. Lane asked what type of difficulties the transmission lines would put on farming.

Commissioner Mahoney stated a wire fence running underneath the lines could be electrified enough to knock down a cow. The right-of-way must be accessible to the City of Tacoma at all times. He believes only fences are allowed around those lines.

Commissioner Guenther asked to see the topography map as he did not recall any raised elevation. He also asked about access to the property.

Commissioner Russell stated Young Rd., Switchyard Lane and Hydrovista Lane all provide access to the flat portion of the property. He agreed with Commissioner Guenther that the top of the hill is quite flat but did not think the elevation to the top is significant enough to prohibit farming activities. Along the Young Rd there are some active farms.

Mr. Lane would like to see which parcels are impacted by the transmission lines and come back with a recommendation to either not include it or to include part of it. There are substantial acres of prime soils. If the power lines prohibit farming then that must be addressed.

Commissioner Russell would like to see defined parcel lines also.

Mr. Lane stated another area that needs to be considered is along St. Route 508 where the Raintree Nursery is located. It is currently designated FRL and the Growth Board especially wanted the County to re-examine this area. It is in horticultural use and is a non-soil agricultural use.

Commissioner Mahoney stated the owner is in favor of ARL designation. If he wants to opt in that is his right. However, the spot zone prohibitions suggest you don't go into the middle of a large FRL designation and designate for the benefit of one land owner. There are fewer restrictions on ARL than on FRL. Commissioner Mahoney quoted a couple of legal cases stating spot zoning is prohibited because it denies equal protection in the enforcement of the laws for the benefit of a small group or individual. The cases were Smith vs Skagit County in 1969, and Probuck vs Snohomish County in 1971.

Mr. Lane stated spot zoning is still a concern; however in the GMA process several legal scholars argue that spot zoning is no longer an issue. GMA was adopted in 1991 and those cases pre-date GMA and the result may be different now. Mr. Lane is not suggesting it is not something the Commissioners should not consider.

Commissioner Mahoney believes the County would be giving this land owner a beneficial rezone in the middle of an FRL rezone and for that reason opposes its inclusion into ARL.

Chairman Jennings asked the consensus of the Commission. The consensus was to leave it as FRL with the opt-in to ARL available to the land owners.

Chairman Jennings stated the review of the maps would continue on Wednesday, May 13, 2009, 7:00 P.M.

III. Calendar

The next meeting, a special meeting, will be May 19, 2009 at 7:00 P.M. with the ARL maps review.

IV. Good of the Order

Mr. Dennis Hadaller stated the Tacoma City Power land is wildlife mitigation land that the City had to buy for the land they flooded.

Mr. Hadaller stated he had his soils tested and submitted a paper with the results. The price went from \$60 to \$240 per acre to get the yield up to four tons per acre, and the testing was done on the best part of his property.

Mr. Hadaller stated he believes the public needs a broader definition of prime soils and lands of statewide significance.

V. Adjourn

Motion was made and seconded to adjourn. Adjournment was at 9:30 P.M.

**Lewis County Planning Commission
Lewis County Courthouse
351 NW North St.
Chehalis, WA 98532**

**May 13, 2009 – 7:00 P.M.
Meeting Notes**

Planning Commissioners Present: Bob Guenther, Mike Mahoney, Rachael Jennings, Arny Davis

Planning Commissioners Excused: Bill Russell, Richard Tausch

County Commissioners Present: Bill Schulte, Ron Averill

Staff Present: Barbara Kincaid, Glenn Carter, Pat Anderson

Consultants Present: Andy Lane, Cairncross and Hempelmann; Stan May, BHC Consultants

Others Present: Please see sign in sheet

Handouts/Materials Used:

- Agenda
- Soils Maps

I. Call to Order

Chairman Jennings called the meeting to order at 7:03 P.M. The Commissioners introduced themselves.

II. Old Business

Chairman Jennings asked Mr. Lane to continue with the review of the maps, a continuation of the discussion on May 12.

Mr. Lane stated that at Tuesday's meeting the discussion began with Map #18 at the eastern end of the County and proceeded west through Map #14. There were a couple of maps that the staff and consultants did not have specific parcel level recommendations for potential additional ARLs. The Planning Commission asked that those be provided and there was not time to prepare those for tonight's meeting but they will be available next Tuesday.

Commissioner Mahoney asked for some clarification on some issues. He stated he had reviewed the Hearings Board's decision and understood that using the prime soil definition as the threshold criteria was erroneous and that the County should look at the areas that would enhance and preserve the agricultural industry and are capable of being farmed regardless of their prime designation.

Mr. Lane did not believe that characterization of the Growth Board order was entirely accurate. He stated when we went through the process in 2007 we did not consider anything that did not have prime farmland. That means that the land that had prime if drained or prime if irrigated soils were not evaluated. Those lands that had non soil-

dependent agricultural uses that did not occur on prime farmland soils were not considered. That is the context of what the Growth Board was talking about; that the prime soils alone were not the starting point. The Growth Board's order of invalidity in 2004 invalidated the lands that had both prime soils and showed evidence of recent or historical agricultural use. That was part of the criteria that we used in 2007 and that went back to the Growth Board. In Mr. Lane's opinion they backtracked some from their invalidity order and determined it did not mean it had to be both of those things. That is when they loosened up some by defining the ARL universe by just prime farmland. And that is when we included the non soil-dependent uses and the prime if drained and the prime if irrigated soils. Our universe in 2007 was too small.

Commissioner Mahoney quoted the Hearings Board: "...the first focus for a jurisdiction in making its designation determinations is to look at the general characteristics of the property itself and whether it can be used for any of the types of agriculture enumerated in .030(2)."

Commissioner Mahoney stated if we are supposed to look at the general characteristics of the property, not whether it is designated prime or not, that in itself says that some areas that are prime soils may not necessarily fit that need. We looked at forest land last night that had no access or power or infrastructure needed to support commercial agriculture and the fact that prime soils were there becomes less important than some of the other factors; therefore, the Board was correct in saying those should not be included in ARL designation. He went on to say that Mr. McCormick and Mr. Lane believed if there were prime soils present and they were not included the County would be in trouble. Commissioner Mahoney does not interpret what the Board is saying in that way and would like to have it made clear.

Mr. Lane stated the fact that the timbered areas are on prime soils mean that we need to evaluate them. The Juanita Kandi property has prime and prime if drained soils and needs to be considered. In the initial review it appeared there was some ag activity going on there and so it became part of our recommendation. The discussion last night revealed no access and no power located there and that essentially makes that particular property not capable of being used for agriculture. It must be considered but it did not pass the threshold test. That is sufficient justification under GMA not to include it. Other properties must be looked at and they may nor may not be designated.

Commissioner Mahoney did not feel the expertise brought by the Commissioners was being considered.

Mr. Lane stated the expertise that all the Planning Commissioners bring is incredibly valuable and necessary. We need to apply that expertise in the context of the criteria. One example is Gibb Lake and Commissioner Russell explained that every time he has seen the lake it is wet. Looking at the topography map we could see that and document that. The personal knowledge you bring needs to be put into a form that follows the steps. That is why it seems like we are resisting that expertise. Mr. Lane stated he is trying to ask the questions and express the knowledge of the Planning Commission

members in terms that we can use to explain to the Growth Board. The power lines discussion was a good one as that speaks to capable of being used.

Commissioner Guenther asked if long term commercially significant means commercially significant today or in the future. The land in the Cispus Valley that is owned by Port Blakeley Timber Company and not zoned forest land may some day be commercially significant. That is why he based his statement on looking at the land and the soil for what it is. That will not change. The timber company could go out of business and sell the land in five acre lots.

Mr. Lane stated the idea of long term commercial significance is to conserve agricultural lands so the industry has lands to use in the future. The actual definition comes down to applying all the criteria.

Map #11 was the next map and some of those areas are also shown on Map #10. Mr. Lane pointed out the recommended area in the northeast corner of the map. There are a couple of large forested areas in timbered production that should be considered. It is zoned RDD-10 currently.

After discussion it was decided to include some other properties to clean up the lines and zone all the properties the same. The smaller parcels would not be affected by ARL designation.

Commissioner Mahoney referred to the upper left corner of the map around Burchett Rd. There is a small block between two larger blocks that has been left undesignated.

Commissioner Guenther stated it has not been cleared like the properties on either side but the soils are the same.

The consensus was to include it.

Map #10 includes large parcels on prime farmland soils that are in timber production and need to be reviewed.

There was discussion regarding the area between Justus Rd. and Cinebar Rd and including it in the ARL designation in spite of the small parcels. It was decided to include it in the ARLs.

South of that area, north of Calvin Rd and east of Cinebar Rd. is a 200-acre parcel that is in forest tax use and does have prime soils. There are some smaller lots that border it on the south and on the west and some 40 and 20-acre lots on the north. One of the 40-acre parcels is in agricultural open space tax status. Mr. Lane did not recommend including the smaller lots.

Mr. Lane pointed out the large parcels to the south and east of Johnson Rd. Commissioner Mahoney stated this is very rough ground and would be difficult to convert. It is in long-term timber production.

Mr. Lane had no recommendation to include it and there were no other recommendations on this map.

Map #9 is the area around the airport. The Planning Commission looked at the area south of Blue Creek Lane and Grimes Rd. on the east. Some of the larger parcels are federally owned. There was a consensus not to include it.

In the southwest corner of Map #9 is a block of land that was not included in the other recommended area. Mr. Lane stated this block was probably not included because of the parcelization. After discussion, that block and another block on Toledo Salmon Creek Rd. and Kangas Rd. would be included.

The large block of land north of the poultry operation was considered. The Commission decided to leave it out primarily because of frequent flooding and not having prime soils.

Commissioner Mahoney referred to the area just east of Schoolhouse Lane that was not included, although the parcelization looks the same as on the other side of Schoolhouse Lane.

Discussion followed.

Mr. Lane stated this is an area where parcelization could play a role. We could go from the eastern tip of the runway to Schoolhouse Lane and north to Tucker Rd.

Commissioner Davis was in favor of not including the small parcels east and north of the runway.

Mr. Lane stated there is some rationale for excluding that area. Taking out the larger areas on the south side of the airport and moving eastward would be a harder position to defend.

Commissioner Davis asked about the large parcel just north of Howe Rd and west of Classe Rd. Mr. Lane stated this has prime-if-drained soils, is in timber and has not been drained so it was not considered.

Commissioner Mahoney asked about the proposed areas on Jackson Highway, Rakoz Rd. and Poetsch Rd. There is quite a bit of parcelization in the area and there are blocks of proposed ARL divided by areas that are not proposed.

Mr. Lane stated the owner of one of the long narrow parcels had submitted an affidavit stating the land had not been drained.

Commissioner Mahoney thought they should not be included because of the parcelization around them, nearness to the river and Jackson Highway and they isolate the parcels in between.

Mr. Lane did not have too much of an issue with those parcels coming out; although predominate parcel size is on the line. If that is the Commission's desire, they can be taken out of the recommendation.

Commissioner Davis asked what criteria are being used to pull these parcels out.

Mr. Lane stated it is primarily parcel size and also the evidence of the soils of adjacent parcels that we know are not drained. There is some availability of public facilities to consider, too.

III. Calendar

Chairman Jennings stated the next meeting will be Tuesday, May 19, 7:00 P.M.

IV. Good of the Order

Mr. Gene Butler stated it is commendable that the Planning Commission has listened so carefully to the proposals that are being made.

Mr. Butler wanted to respond to a remark made in a memorandum by a Planning Commissioner. Mr. Butler is not opposed to development. What he wants to see is consistent application of the rules. He has been fighting for the last ten years for this consistency. There has been quite a bit of progress over that period of time and he would like to see that continue.

Mr. Jay Hall appreciates the efforts of the Commission. He has had difficulty understanding the definition of long term commercially significant resource land as required by the GMA. He does not understand how a 20-acre piece can be economically viable, whether it is in forest or ag or mineral designation. A 20-acre piece is not economically viable.

V. Adjourn

A motion was made and seconded to adjourn and carried unanimously. Adjournment was at 9:13 P.M.