

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

**April 28, 2009 – 7:00 P.M.  
Meeting Notes**

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

**County Commissioners Present:** Lee Grose

**Staff Present:** Glenn Carter, Bob Johnson, Barb Kincaid, Pat Anderson

**Consultants Present:** Andy Lane, Cairncross and Hempelmann; Mike McCormick

**Others Present:** Please see sign in sheet

**Handouts/Materials Used:**

- Agenda
- Meeting Notes from April 14, 2009
- Memo from Commissioner Mike Mahoney re: ARL Process
- Response from Andy Lane re: ARL Process
- Schedule for ARL Compliance workshops

**I. Call to Order**

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

**II. Old Business**

**A.** Chairman Jennings entertained a motion to approve the meeting notes. Commissioner Guenther made the motion; Commissioner Tausch seconded. Commissioner Russell noted two corrections: Page 2, second to the last paragraph, last line should read “see” rather than “zone”. On page 6, paragraph 6, “his” should read “he”. Motion passed with corrections.

**B.** Chairman Jennings opened the workshop on Agricultural Resource Lands and recognized Mr. Andy Lane.

Mr. Lane stated since the last workshop the staff and consultants has drafted a work plan based on the Planning Commission conversations and public comments received during the public hearing process which identified several issues to be addressed. In the meantime there was a compliance hearing with the Growth Board which resulted in a new deadline. The Growth Board agreed to a six month extension from the date of the last compliance deadline. August 6 is the new deadline for the County to adopt the compliant ARL designations.

Mr. Lane stated Commissioner Mahoney submitted a memo to the Planning Commission which raised some good points; however there are items that Mr. Lane, as the County's legal counsel, must address on the record.

Mr. Lane stated all of those involved in the ARL process share in the frustration of how this process has turned out so far. The way the GMA addresses long term commercial significance and the way that many of us think it should turn out are not the same. Mr. Lane stated it was clear in Commissioner Mahoney's memo that Mr. Lane had not made it clear what limits we have to work with. The bottom line is: we can absolutely question the criteria and question what the law requires. However, we cannot ignore what the law requires, and that is what the statute says as interpreted by the Courts and as interpreted by the Growth Board. We have fixed parameters within which we must work.

The designation process was generally approved by the Planning Commissioners and County Commissioners in 2007. The Growth Board accepted most of it; they identified some problems, some areas of land that were not considered, and they identified a problem with the way that the criteria were applied in the I-5 areas. Those are the things we are coming back to fix. The County Commissioners decided not to appeal the Growth Board decision and therefore we have a mostly GMA compliant process with some very specific items to correct.

Commissioner Mahoney's memo stated we did not have to look at any Forest Resource Lands (FRL) designated land. Logically, FRL are protected under the statute and protected under County code and that is what we took to the Growth Board in 2007. The Growth Board disagreed. It said there are areas in FRL designated lands that may meet the qualifications for ARL designation.

Another issue is non soil-dependent agriculture when that occurs on non-prime farmland. In 2007 we went to the Growth Board, with CTED's blessing, and stated we do not need to designate these uses as ARL because the land is not prime farm land, it just happens to have commercial agriculture on it. Those uses are protected by the Code and therefore do not need to be designated. Again, CTED agreed with us but the Growth Board did not. We must abide by the Growth Board decision.

Considering the I-5 corridor and acknowledging economic development needs in the sensible places where economic development might happen, any of the 10 WAC criteria could be a determining factor. In 2007 the Growth Board stated we applied the criteria inconsistently with how it was applied throughout the County. The Growth Board focused on land values under alternative uses and proximity to UGAs and stated these alone cannot be sufficient to draw land out of ARL if it meets the other criteria. The Board essentially stated we cannot take one criteria and use it as a determining criteria.

Similarly, proximity to UGAs and proximity to the availability of public services cannot be weighed more heavily than other factors. The Growth Board insists that all the criteria must be considered together.

Mr. Lane stated we have talked about productivity which is an ongoing concern and staff and consultants understand the frustration of what real productivity on the soil is. What we are bound by is the fact that the NRCS soils data takes into account productivity. The soils manual from 1987 talks about the scientific approach taken to determine soils productivity. The Code of Federal Regulations, which amended how prime soils are classified in 2006, also has a specific listing of things that are evaluated when NRCS determines what prime farm land is. We don't have the option of ignoring what NRCS says. If on any particular land the NRCS analysis is wrong and we have data that can go through the NRCS criteria, the scientific information to rebut NRCS classification would be helpful for a particular property owner. We have that mechanism in the Code. We do not have the ability to take anecdotal information and apply it countywide and say all these types of soils are not prime farm land, regardless of what NRCS states. That is not evidence that can be supported at the Growth Board and it is not evidence that can be supported at Court. Mr. Lane's job is to keep the County out of legal trouble. There must be no question as to what the County's limits are. If the County were to consider new criteria those still would need to be within the parameters established in the WAC criteria.

Based on what the law allows, we are proposing that we look at the specific issues that have come up at the public hearings and Planning Commission workshops, look at the maps and address those issues. Among those are the "island" ARLs, and the long term commercial significance of those islands. We will look at the criteria again and find rationale within the criteria to either include it or exclude it, and the same with the lands along I-5. There are some lands that were not included for ARL designation and probably should be and there other lands that probably should be out. We need to look at those systematically and go through the designation criteria to make that determination.

For the consultants, the lands that are the most problematic are lands that are in timber use that are not in FRL designation but are located on prime farm land. During the first round of recommendations the assumption was that if these lands are in timber use they would be not capable of being used for agriculture. Land which had trees on part of it and cleared areas on the rest was evaluated and some were included. Based on testimony, other areas that are in timber and have prime soils that are not in the FRL designation need to be looked at more closely. We are looking into available information from NRCS or DNR or other agencies that can give us general guidelines for potential costs of the physical conversion of property. Without that information we will need to work through the criteria.

Mr. Lane stated this sounds rather simple, but with the new timeline it is very compressed. Working backwards from when the County Commissioners have to take action, the Planning Commission needs to make a recommendation to the BOCC by June 23. The work plan we have proposed is aggressive. Tonight there will be more specific issues to consider before we go through the maps. When we get to the maps we will have four or five workshops to address the issues that have come up. At the end of those workshops there will be more public hearings. The workshops will be on May 12, 13, 19, 20 and possibly May 26. The public hearings will be June 16 and 17, one in Morton and

one in Chehalis. The Planning Commission would meet again on June 23 and hopefully make a recommendation to the BOCC.

Chairman Jennings asked for comments from the Planning Commission.

Commissioner Guenther stated Mr. Lane covered some concerns that he voiced regarding forest land that is adjacent to agricultural land and was not designated ARL.

Commissioner Russell asked of the ten criteria on any given piece of property, how many of the criterion must apply.

Mr. Lane stated there is not an objective number. It is a consideration of all the criteria.

Commissioner Russell stated you can't use two criteria on one parcel and five on another. The consistency factor is lost on Commissioner Russell.

Mr. McCormick stated the best answer is that on each parcel all of the criteria are considered. Some [criteria] may not be applicable; some may be applicable within a wide range or applicable in a narrow range. The key is to articulate that and then summarize how it applies. We tried at one time using a numerical system and it did not work. There are some criteria that are relatively equal across the County. That does not make the criteria useful for differentiating one parcel from another, but we still considered it. It is both an art and a science.

Commissioner Mahoney stated when the decision came back from the Growth Board he understood that we were required to consider parcels that we had not considered previously, such as along the I-5 corridor, the forest ground and the non soil-dependent ag, and show the reasons for including it or not including it. It was not his understanding that the Board said we will do certain things.

Mr. Lane stated Commissioner Mahoney is correct, that lands that are proposed for consideration is not the whole universe of lands that were reconsidered by the staff and consultants. The Growth Board stated we must consider lands that were not considered in 2007; the new proposed ARL designations do not include all of those lands because they all did not satisfy the criteria. What is before you is not every piece of land that somehow meets the criteria; it is lands that as a whole in a consistent application of the criteria and meet the requirements for ARL designation.

Commissioner Mahoney stated that did not answer his question. Commissioner Mahoney's memo states that the existence of non soil-dependent agricultural enterprises is not a reason to designate ARL. Mr. Lane states the position was explicitly rejected by the Growth Board and the County is bound by that decision. It was Commissioner Mahoney's understanding that the Planning Commission would consider those with agricultural activities on them and determine whether or not they should be included as ARL. Commissioner Mahoney's understanding is that Mr. Lane is saying we have to include them.

Mr. Lane stated that his memo is not saying that; rather it is contrasting the statement that we don't need to designate them. What we need to do, by the Growth Board decision, is to look at those areas and not exclude them even though we don't think they necessarily need to be designated to protect the land. We need to look at the non soil-dependent uses and if they satisfy the criteria then they should be considered for designation. If they do not meet the criteria then they should not be designated.

Commissioner Mahoney stated Mr. Lane stated we cannot accept anecdotal evidence. He does not believe the work of the TAC and the public hearing testimonies over the past couple of years is anecdotal evidence. The fact that we disregard that input seems to be legally incorrect. He does not understand how the Growth Board or the County can ignore all of that work and say it was wrong.

Mr. Lane stated he did not say it was wrong. If we are using that testimony or information to challenge the NRCS determinations, it needs to be of equal or superior scientific merit. The NRCS methodology is very explicit and it is hard to rebut that to say that a certain type of soil that NRCS considers to be prime soil based on the application of the criteria is incorrect because someone has been trying to grow crops on the land and cannot do it.

Commissioner Mahoney stated there were very experienced farmers on the TAC, and a former soil conservation man responsible for a large portion of the handbook we are using, who eventually left the meetings because he was told he was wrong; that the interpretation of other people was more correct than the man who wrote the book. That is illogical and insulting. Commissioner Mahoney does not want to be part of taking a political stand and twist the facts to make them fit rather than listen to the scientific evidence. Best available science and best management practices say one thing and there seems to be a political agenda that doesn't like it and twists it.

Commissioner Mahoney would like to take a scientific approach and look closely at any 3W and 3E soils. All of what Commissioner Mahoney considers as expert testimony has stated that the 3W and 3E soils will not be self-supporting as agricultural entities; they have always had outside sources of income to farm. It doesn't matter how they are zoned because they are too wet to be built upon. If we are going to take a scientific approach we cannot ignore the testimony and the work of the TAC. If we are going to take a political approach then let the elected officials sit up here and make the decisions.

Mr. Lane stated the scientific approach used in 1987 specifically said the soils scientist interpreted the data from laboratory analysis and engineering tests, field observations, characteristics and soil properties to determine expected behavior, and others. Interpretations of all soils were field tested through observations of those soils, data were assembled from other sources, such as research information, production records, field experience of specialists, data on crop yields. This was all in the survey. As far as prime farm lands in the soils survey, it states: prime farmland soils, as defined by the USDA are soils best suited for producing food, seed, forage, fiber, etc. Such soils have properties

that are favorable for the economic production of sustained high yields of crops. Soils need only to be treated and managed using acceptable farming methods. Adequate moisture and sufficiently long growing seasons are required. Prime farmland soils produce the highest yields with minimal units of energy and economic resources. Farming of these soils results in the least damage to the environment. This is from the Soils Survey from 1987 so the people who wrote that recognize what prime farm soils were under the federal rules.

Commissioner Mahoney stated in that same book within the soil map units there are sub-categories and the sub-categories are further interpreted with numerals that include erosion, wetness, etc. They have arbitrarily decided that I, II and III sub class soils should be determined to be prime.

Mr. Lane stated it is not arbitrary because they spelled out what the rules are.

Commissioner Mahoney stated it is when you look at the scientific data. They had to make a cut-off point somewhere. The difference between I, II and III is productivity and the amount of extra management effort that is taken to farm it. Number I are the best and there are very few of those. The number II are the soils that we should be primarily looking at. We need to be careful when we look at the III soils. They have about a one-third growing capacity of a number I soil. They are marginal farming soils, on the lower end of the prime soils rating. Commissioner Mahoney believes there should be consideration given to that.

We are constantly told we cannot look at productivity and that we must accept what is in the NRCS. We know there are errors in the mapping and NRCS has testified to that. Commissioner Mahoney is not against including them but they should be considered. The citizens have a right to come back to us about a specific parcel, but the County is taking a broad brush knowing some prime soils will be included. We need to look at the criteria, which will be applied subjectively. Commissioner Mahoney is willing to consider these things but he does not want to be told that we have to include any piece of ground unless they said so. To take a piece out of Forest Resource Land and make it ARL is going the wrong way if we are concerned about protecting resource properties. The FRL designation is a much more restrictive designation than ARL and if it was ever converted to non-forest land, it would have to be rezoned and the County would determine at that time if it is ARL or RDD-20, etc. He believes the Growth Board would agree with this argument. The reason to look at forested ground that is not FRL or ARL designated now is because it could be cleared and immediately developed under whatever the zoning was. If we bring it into an ARL designation at least it would have those protections and if it was cleared it would not be for commercial or residential development but for ag development, if all the criteria are met.

Commissioner Davis asked if the arguments that came up during the last meeting were outside of the constraints that we have.

Mr. Lane stated that is not totally accurate, that the issues that came up identified areas that need to be re-examined. We, the consultants and staff, did not think that what we were giving you was a final packet, that we still needed Planning Commission input.

Commissioner Davis stated there will always be a few parcels that come up after the fact, either way. He asked if we will go through all the maps again or is there something specific we should be looking at.

Mr. Lane stated he hoped to have a focused re-examination of the maps based on the issues that came up at the public hearing and that were discussed at the last workshop, especially the I-5 corridor. What we did not consider in the package before you is the new interchange at LaBree Rd. Looking at lands with prime farm soils that are in timber production the assumption going into this recommendation was that those lands were not capable of being used for agriculture because of the cost of physically converting them. We heard testimony that that may not be true and those lands need to be re-examined. The ARL islands need to be looked at again; some may satisfy the criteria and will be appropriate to keep in and some may not.

The reason we need to look at all the maps is because virtually all of them have some stand-alone ARL proposal. We did an initial review after the last workshop and concluded that we need to go through all of them and focus on the specific issues.

Commissioner Davis stated he did not think we could meet all of Commissioner Mahoney's requests but he hopes that everyone is on the same page of applying everything consistently. Is it possible to identify reservations in the Letter of Transmittal to the BOCC?

Mr. Lane stated that is totally appropriate.

Commissioner Davis would like to state that the Planning Commission is doing this because of the Growth Management and the law and it doesn't necessarily believe it is right, and state specific reasons why it is not right, still understanding that the County needs to get out of invalidity.

Mr. Lane stated in that regard any alternative or recommendation submitted with the Letter of Transmittal is very helpful to the ultimate decision makers, and it is helpful for the future if it ever has to be revisited.

Commissioner Tausch stated in regard to individual land owners pursuing de-designation and taking up to two years to accomplish, is there any way of streamlining that process?

Mr. Lane stated rezones need to go through the annual comp plan amendment cycle, which has a deadline requirement for submitting the request and then the County needs to review it.

Ms. Kincaid stated property owners can submit their rezone requests between September and December of the calendar year. It goes to the County for review the next year for the following year's amendment. If a rezone request is enacted it generally goes through during the month of December and when the Ordinance and Resolution is adopted the change is effective immediately.

Mr. McCormick stated the schedule is predicated on rolling up all the provisions, whether it is UGA boundaries, and there is nothing that would preclude consideration allowing for specific applications. If someone wanted to file an affidavit that their property is not drained we might be able to have a separate cut-off for those.

Mr. Johnson stated his concern is not the timing of how that works but that we are statutorily constrained by GMA to have only one comp plan amendment per year. The process rolls all of that into the two-year cycle.

Commissioner Tausch asked if the FRL that were considered includes DNR land. There are some farmlands owned and leased by DNR and he asked if it is appropriate to designate that type of land.

Mr. Lane stated it is appropriate and the recommendations are not based on ownership but on land use and land capability and application of the criteria.

Commissioner Tausch asked if there is a plan to respond to the public testimony.

Mr. Lane stated the consultants and staff has looked at all the testimony, looked at the properties and came back to the Planning Commission with some new properties to reconsider as a result of reviewing that testimony. It is not possible to have a written response to each comment but we did look at each comment and evaluated the information that was provided.

Mr. McCormick stated as a general rule, when we are talking about the timbered parcels with prime soils, we are not talking about anything that is currently designated as Forest Resource Land. That does not mean that we did not look at previously designated FRL but that is not part of this discussion. We are talking about the forested lands that are currently RDD that are outside of any resource land designation and that is the extent that we are talking about for this particular component. It is independent of ownership; if it is owned by State parks or DNR, they were looked at and considered with the same criteria.

Commissioner Tausch asked for confirmation that anything that is currently in FRL was not evaluated for potential ARL designation.

Mr. McCormick stated there are two pieces. We did go back and look at FRL that had prime ag soils because the Hearings Board said we had to look at it. There was only one area where there was an issue and Andy can address that when we get to that particular map. Then there is the new issue of prime soils with timber and that is what we are proposing to look at.

Commissioner Tausch stated the term “capable of being farmed” is used a lot. He asked if it is in the County definition of ARL or not. He is confused about the Hearing Board’s determination along those lines, saying the definition at the time was accurate even though it did not have the phrase in it.

Mr. Lane stated the statute talks about land primarily devoted to commercial agricultural production. That phrase was interpreted by the Supreme Court as meaning land that is currently used or capable of being used for commercial farming. The language in the comprehensive plan repeats the statutory language and that is sufficient because the language means what the Supreme Court said it means, whether we say it does or not, and that is how we have been analyzing land for ARL.

Commissioner Guenther stated we need to consider our economic situation for many years to come and he does not want to see the County split up into industrial zones by 360’s. We tried to protect a mile on either side of the I-5 corridor for industrial use and we were shot down. He asked if there is a way that we can address the economic development for the future of the County by utilizing the interstate highway system as well as the state highway system. Can we sell this to the Growth Management Hearings Board that some of this land may be prospective ARL land but if we were to not designate it as ARL based on the possibility of economic development, would they consider that? An example: Ritchie Brothers is looking at ag resource land and in five years that will bring in about \$50 million to the County, which is a lot more money than farm land would bring in 100 years. Can we look at pieces of land that will determine our economic future?

Mr. Lane stated in 2007 we did not actually take a mile on either side of I-5 and keep it clear; we did an area-by-area analysis. In the past we described ag designation as ag prison: there is never a way to get out of it. There was reluctance on the part of the Growth Board to approve any re-designation from ARL into anything else. That is no longer the case, at least in the language and the action of the Growth Board. Clark County re-designated some lands that had been ARL into urban growth areas and the Growth Board upheld that. A reason for exclusion by the Growth Board in the areas along I-5 is proximity to UGAs, especially in light of city testimony that this is where expansion is needed for economic needs. There were no specific proposals for UGA expansions or needs analysis presented saying any particular city needed this land at that time for UGA expansion. The Growth Board has interpreted this that in the future if you need industrial development or commercial development you could justify a particular land that might be designated ARL. The conditions will have changed by then, and when you apply the designation criteria again, it may no longer meet the criteria for ARL but during this time it will be available for potential commercial or industrial development. On the other hand if it meets the criteria for ARL now and is not designated ARL because of some potential future industrial development, who is to say it will not be subdivided for housing and not used for farms or industrial use. Mr. Lane believes that is the underlying concern the Growth Boards have had in interpreting the law as they have.

Mr. McCormick stated under the current terms of GMA it would be very hard for the County to make the case and sustain it that you are withholding land that met all of the criteria for ARL for some future use, regardless of the merit of that use. The only way to provide for economic development outside of a UGA is to 1) expand an existing UGA or 2) to use the provisions of 365 or 367. Lewis County is currently undertaking a regional planning effort for South County that is viewed as a pilot project and was specifically funded and authorized by the Legislature. One of the issues is to look at how to address the needs for economic development. That may provide the reasoning and rationale for the Legislature to revisit that issue. Absent a change in the statute, it will be very, very difficult to make an argument to exclude a piece of property based on potential future use that is not currently permitted in the ag zone or the RDD zone.

Commissioner Guenther stated citizens have asked for exclusion from ARL. From what he understands Mr. McCormick said it will be hard for the Planning Commission to exclude that property.

Mr. McCormick stated that is correct. The one distinction he made is if an individual property owner said he has specific plans to do something and has done certain things to pursue that and it is a use that is permitted currently in RDD that might be something that could be weighed differently than a similarly situated applicant who was undertaking something that is not a currently permitted use in RDD.

Commissioner Guenther stated there was testimony regarding the freeway interchange. It does not appear those people will have any chance of being excluded.

Mr. Lane stated the proposal in front of the Commissioners has areas that we do need to revisit. As far as the development at the LaBree Rd interchange, we need to see what that looks like on the ground. Based on the testimony and looking at its proximity to UGAs and other factors, we need to go through the process. Mr. Lane is not stating that everything that the consultants have given to the Planning Commission is accurate. They have done their best but there will be errors that the public and the Commission find through the public hearing process.

Mr. McCormick stated that to the extent that there are a larger variety of uses permitted under RDD and where you do have factors like an interchange, you can take that into consideration. You cannot create a situation where the proposed use that someone is talking about is going to be permitted there. That depends on what is in the Code.

Commissioner Mahoney stated a comment came up when the Planning Commission was considering a UGA expansion by the City of Centralia for industrial development. That is: if we do not make ten and twenty year plans to protect some large parcels of property for that type of development, when the time comes there will be a bunch of 20-acre horse farms and no one can afford to do anything and we have defeated the purpose of GMA. Perhaps this is an unintended consequence of a law that has faults. There must be local input as to what is important to our County and at some point the County needs to say this is as far as we can be pushed and if we have to go back to the Supreme Court then we

do. That is not a decision for this body to make. He wants to make sure a product goes out that the Planning Commission can sign its name to and believe it will work for the County and under the law.

Chairman Jennings called a recess and reconvened at 8:28.

Mr. McCormick clarified an instance where there might be justification for re-designation of a particular ag designated parcel. If someone wants to undertake an activity that was permitted in the RDD zone, on a case-by-case basis you could make a case that you have looked at the 10 criteria and now you think this higher use is justified in terms of the overall picture.

Commissioner Mahoney stated that at any time anyone can come to the County with a proposal for a re-designation to any zone and it would be discussed at that point. That is where we get into the two-year process.

Mr. McCormick stated that is correct and it would be at least a year-long process.

Commissioner Mahoney stated right now we need to have pretty firm justification if we are going to say no, that it meets the criteria except for a couple and we don't want to include it. You want us to be careful about that.

Mr. McCormick stated he wants the Planning Commission to be careful and thoughtful and on the record.

Commissioner Russell asked Mr. Lane if he recalled the parcel near Butler Road on Map 15A that was discussed as being a wetland. He asked how the consultants decided to handle that scenario.

Mr. Lane stated it had some parcels already sub-divided. What was considered were the soils, we looked at the aerial photos, looked at parcel sizes, etc. and the additional information Commissioner Russell provided was some fill was added at least on some part of the property, probably after the soils were mapped in 1987.

Commissioner Russell stated he did not know when the soils were put there. When he first went to Randle the log site was already there and that was prior to 1987.

Mr. Lane stated he would prefer to look at the map again, but how it was proposed for designation was looking at the soils, aerial photo and parcel sizes and going through the criteria. That is one we will want to look at again and see what use is going on there and how it is recorded with the Assessor's office.

Mr. Lane stated Commissioner Russell had requested a soils map and those will be prepared prior to the next meeting.

Commissioner Guenther asked if the soils map could match the maps already being used by the Commission.

Mr. Lane stated that can be done, and there will be as little extraneous information as possible on the maps, other than being able to identify the areas they represent. If a specific map is needed, that can be done, also.

Commissioner Russell would like just the roads on it for points of reference. The UGAs, city limits, etc. would be left off of the map. Other things can be added with the computer if necessary.

Chairman Jennings stated her request is to have it on a CD so it can be enlarged. Her concern is a 20 acre parcel with 10% of it being prime soil and it is going to be classified as ARL. How can that be commercially significant? Were the criteria either yes or no?

Mr. Lane stated it was not a yes or no application. The Summary of the Application of the WAC Criteria paper you received several meetings ago explained in narrative terms how those criteria were applied and the results of the application on a particular map. Regarding the amount of prime soils on a parcel, the maps will be helpful. As we went through all the parcels with prime soils we made a determination. It was not a fixed number. If it was a small corner with prime soils it was not considered for ARL.

Mr. McCormick suggested that the section lines are included on the maps also.

Commissioner Russell stated he and Mr. McCormick had discussed parcels with a only a portion of prime soils on them. If you are talking about a 500 acre parcel and 30% of that parcel had prime soil on it, to not designate it would probably not meet muster with the Growth Board. He urged the Commissioners to not get hung up on the percentage number until we actually look at the parcel to see if it makes sense for the parcel to be designated.

Commissioner Mahoney remembered a large wall map that showed current zoning and thought that may be helpful to have available. Perhaps there is the same type of map with prime soils. He didn't know if it was necessary to have individual maps. The computer can bring up any layer that we need to look at.

Commissioner Tausch read from the Supreme Court decision that pertained to the I-5 corridor. "Thus Counties must do more than simply catalog lands that are physically suited to farming. They must consider development prospects or the possibility of more intense uses in determining if the land has enduring commercial quality". In that regard, can we apply that statement to the I-5 corridor?

Mr. Lane stated yes, but what the Supreme Court was explaining is the structure of the statute and how the WACs apply. There is the statute that talks about the land aspect of it, the soils, the uses, etc, and then there are the WAC criteria that are the more development-oriented considerations. What the Supreme Court was getting at is it is not

just the first step. You go through the first step to think of the land and then you go through the development related considerations. Yes, we are applying the Supreme Court interpretation but it is in the context of applying the WAC criteria.

Mr. McCormick stated there is another place in that decision where the Supreme Court describes what they mean. What it says is you can look at the two general categories and those are defined by the ten categories in the WAC and they are very specific about that. The key is how does it fit in the WAC criteria and how are they applied. It clearly points back to the WAC as the way you ask those two questions.

Commissioner Tausch interpreted it as saying it is not enough to classify land as ARL based solely on the physical properties of the soil, that you need to go further and look at those ten criteria. Is that something we are doing with everything we are considering?

Mr. Lane stated that is exactly what we are doing.

Commissioner Mahoney asked about spot zoning. There are areas around Jackson Highway where there are ARL properties separated by RDD-20. They should all be ARL or they should all be RDD. Will these be looked at?

Mr. McCormick stated we would first look to see if any of those areas are affected by standing timber. That might help form the discussion. Yes, it is a discussion we need to have.

### **III. Calendar**

The next meeting will be May 12, 2009 at 7:00 P.M.

### **IV. Good of the Order**

Mr. Dennis Hadaller, Mossyrock, stated he is still concerned about the notification of these meetings. He did not see anything in the Chronicle.

Mr. Hadaller stated the Planning Commission received some very good information from Ms. Milward, Cushman Law Offices. That should be studied. It includes their interpretations of the WAC. He wanted it to be on the record that Highway 12 is a federal highway.

Mr. Hadaller stated he had a soil test done on his property. For the best 30 acres to get commercial fertilizer is \$60 an acre and that is good for one year. He doesn't understand how this could be prime soil.

Mr. Hadaller thanked the Planning Commission for the job it is doing and stated there is no single correct interpretation of the law and he hopes the Commissioners choose the one that will be the best for most people.

County Commissioner Lee Grose, on behalf of all the County Commissioners, commended the Planning Commission for its dedication and wanted to express appreciation for the work it is doing.

Mr. Lane asked if the work plan he proposed will work for the Planning Commissioners.

Chairman Jennings asked for opinions. Most of the Commissioners would be able to attend most of the meetings.

**V. Adjourn**

Motion was made and seconded to adjourn. Meeting adjourned at 8:52 P.M.