

Lewis County Planning Commission

Public Meeting

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

January 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 November 18, 2008

- III. New Business**
 - A. Election of Planning Commission Officers
 - B. 1st Workshop: LC Comp Plan Compliance Action; Napavine UGA, Remove Table 4; Birchfield Population; Set Public Hearing for February 10
 - C. 1st Workshop: Agricultural Resource Land

- IV. Calendar – Tentative**
 - Next Meeting January 27: 2nd Workshop on ARLs
 - *First Quarter 2009*: Ag Resource Lands; Open Space Classifications; Lewis County Code Revisions
 - *Second Quarter 2009*: Impact Fees, ARL Appeal; Rezone Remands
 - *Third Quarter 2009*: Annual Amendments; South Lewis County Subarea Plan; Rezones outside Invalidity Order

- V. Good of the Order**

- VI. Adjourn**

This meeting site is barrier free.

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**Planning Commission Meeting Notes
January 13, 2009 – 7:00 P.M.
Lewis County Courthouse
351 NW North St.
Chehalis, WA 98532**

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

Planning Commissioners Excused: Richard Tausch, Bill Russell

County Commissioners Present: Ron Averill, Bill Schulte

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

Consultants Present: Mike McCormick, Andy Lane, Roger Wagoner

Others Present: Please see sign-in sheet

Handouts/Materials Used:

- Agenda
- Meeting Notes from November 18, 2008
- Staff Report re: 2007 Comprehensive Plan Amendment Compliance Issues
- Table 4.1 Lewis County Comprehensive Plan
- Birchfield Population text
- Letter from Cairncross and Hempelmann re: City of Napavine Revised UGA
- City of Napavine 2009 Revised Needs Analysis
- Revised Map of Napavine UGA request
- Memo dated 8.18.2008 re: Amendments to LCC 17.30 related to ARL and Compliance
- Staff Report from Community Development and Consultants
- Summary of Application of WAC ARL Criteria
- Area by Area Analysis Maps – Aerial
- Area by Area Analysis Maps – GIS Layers

I. Call to Order

Chairman Guenther called the meeting to order at 7:02 P.M. Planning Commissioners introduced themselves.

II. Old Business

A. The Chair entertained a motion to approve the meeting notes from November 18, 2008. The motion was made and seconded and carried unanimously.

III. New Business

A. Election of Planning Commission Officers

Chairman Guenther nominated Rachael Jennings for Chairman. There were no other nominations. The nomination was seconded and the vote carried unanimously.

Commissioner Guenther thanked staff for its support during the past year.

Commissioner Guenther nominated Arny Davis for Vice Chairman, Chairman Jennings seconded. Commissioner Davis stated he would be happy to take the position but did not feel he had enough experience and suggested Commissioner Mahoney.

Commissioner Mahoney asked who else will be on the Planning Commission. Mr. Rupp stated Richard Tausch and Bill Russell will both be on the Commission; Mr. Hewitt resigned and his position is open.

Commissioner Mahoney stated he had done a short stint as Vice Chair in the past.

Chairman Jennings asked if the Commission would like to elect a Vice Chair or wait until there was a larger quorum. Commissioner Guenther stated if there is someone willing to do it that person should be elected.

Commissioner Davis stated Commissioner Mahoney had put in extra time to attend meetings and meet with staff in the past year and believed he was an ideal candidate. Commissioner Davis nominated Commissioner Mahoney as Vice Chair. The motion carried.

Commissioner Guenther stated Commissioner Davis had done a very good job and hoped that by next year he would be willing to take one of these positions.

B. 1st Workshop: Lewis County Comp Plan Compliance Action

Ms. Kincaid stated there was a staff report in the Commissioners' packets that explained the comp plan amendments for the cities and boundary changes to two LAMIRDS. These were appealed and the Growth Board issued a compliance hearing date. The Growth Board ruled that the County was not compliant on these issues and that it was sloppy with the text in the comprehensive plan regarding acreage allocation and it also neglected to put the total Birchfield population into the text of the comp plan. These issues need to be brought to the Planning Commission and staff needs to confirm the Napavine figures.

Ms. Kincaid requested that the Planning Commission table this discussion until the next meeting on January 27 and also set a public hearing for February 10 to keep this on schedule for the compliance dates that the Growth Board has set.

Chairman Jennings asked that the Planning Commissioners discard the last three pages of the staff report as updated information would be sent to them and asked for a motion to table the comp plan discussion and set a public hearing.

Commissioner Guenther made the motion to table the workshop as explained by staff and set the public hearing for February 10. Commissioner Davis seconded. The motion carried unanimously.

C. 1st Workshop on Agricultural Resource Lands

Mr. Andy Lane, Cairncross & Hemplemann gave a brief overview of where we are and what documents the Planning Commission will be looking at this evening.

In 2007 the Planning Commission and County Commissioners adopted agricultural resource lands (ARL) in an effort to comply with the Growth Board decisions. The Growth Board identified some deficiencies in that action and gave the County some specific items to revisit. The focus now is on the items that were not reviewed previously that the Growth Board says should be looked at, in addition to reviewing one area looked at previously that the Growth Board disagreed with the decisions made.

The ARLs that were adopted in 2007 were not reexamined. The specific areas that the Growth Board found fault with were those lands that were not on prime soils that had non-soil dependent uses on them: poultry operations, Christmas trees and horticulture operations. Lands that had ag uses but were designated Forest Resource Lands (FRL) were excluded from consideration and those need to be looked at again.

Another category that was excluded was soil classified by NRCS as prime if drained and prime if irrigated. Those were excluded in 2007 because there was not a way to identify which lands had in fact been drained or which lands had a valid water right and were being irrigated.

The Growth Board directed the County to reconsider the evaluation that was given to the lands along I-5. The Board disagreed with the application of the WAC criteria to those lands.

The staff report explains the issues and the attached five memos explain the data that was considered and evaluated by staff and consultants to address each of the areas that the Growth Board said need to be considered. There is also a memo that discusses the code amendment that needs to be made. Mr. Lane briefly explained the memos.

Mr. Lane stated one property owner submitted an affidavit stating his property had never been drained and would not be drained.

Commissioner Guenther asked if that owner had not volunteered the information, how would the land have been classified.

Mr. Lane stated it would have been considered drained and the WAC criteria applied to it. Without better information, if the property is cleared and it appears that agriculture activity is occurring on it, it is presumed it has been drained and is prime soil.

Mr. Lane referred to the memo from the ARL Compliance Team that addressed the development code revisions required. This memo was distributed to the Planning Commissioners.

In 2007 we worked with the subarea maps and had the summary of how the WAC criteria were applied to each map. In making a recommendation this time, we have taken the

2007 summary and included the 2007 comments and added a new column that includes staff and consultants comments for this current review. This summary was also distributed along with the subarea maps and aerial photos of the same areas.

Mr. Roger Wagoner pulled the maps up on the computer and Mr. Lane explained the brown color on the maps indicates the 2007 ARLs that were adopted and remain in place. The reddish-purple color is the recommended new ARLs.

Commissioner Davis asked how many acres the new recommendation involves.

Mr. Lane stated he did not know exactly but it was in the ballpark of 40,000 acres or a little less.

Commissioner Davis asked if the Planning Commission would have the opportunity to go through these parcels with more detail.

Mr. Mike McCormick stated we want to present this tonight and explain it and the substantive discussion will begin at the next meeting. We suggest three meetings be devoted to this work with the Planning Commission's consent.

Commissioner Mahoney understands that there has been no review of the parcels that were recommended a year ago to be included in the ARLs.

Mr. Lane stated there may be one or two parcels that were re-evaluated, but generally the 2007 ARL designations were not touched.

Commissioner Mahoney asked if parcel size is being ignored.

Mr. Lane stated the WAC criteria are still being applied. The memo described the new universe of lands to still be considered and the data that we used to identify those lands. Once the lands are identified, the WAC criteria are applied. With all of the lands that were evaluated we walked through soils and devotion to agriculture and each of the ten WAC criteria to be considered for ARL designation, including predominate parcel size.

Mr. McCormick stated when you look at the application of WAC criteria associated with each map, you will see under #5 predominate parcel size which repeats the comments from 2007. Comments from 2009 are added.

Commissioner Mahoney asked if the existing agricultural activities that were not soil dependent [poultry farms] will be reconsidered.

Mr. Lane stated yes.

Commissioner Mahoney stated if there are existing agricultural activities on soils that will not support any other type of ag activity, a simple change in the economy and that ground is not usable and therefore is not of long term commercial significance. These

should not be considered. Most ag is soil dependent. If for some reason a poultry farm should become not economical to operate and it was on soils that would not support any other type of agriculture, the fact that there is a poultry operation on it now does not make it ag ground. We must be careful when we look at individual parcels.

Mr. McCormick stated the Hearings Board [inaudible] the language that is in the statute and there is not only the ag lands of long term commercial significance but also those activities that maintain and enhance the industry. Those are being emphasized with regard to non-soil dependent activities. Through discussion we could not see a way to clearly avoid that designation but if that use changed, that would be the basis for someone to go through the re-designation process.

Mr. Lane stated the Hearings Board directed the County to consider these lands; they were not considered the last time around. The fact that there is a poultry operation on non-prime soils means that the County needs to consider it. As far as recommendations to the Planning Commission, not all poultry operations are recommended for inclusion.

Commissioner Mahoney asked about the number 2 criteria: tax status. We ignored tax status previously because we had no way of determining it accurately parcel by parcel. Commissioner Mahoney would like to look at that again. We tried to improve our right to farm language to protect the poultry and Christmas tree operations that were not in what are normally considered ag areas. If the County and State are going to tax a parcel at a higher agronomic rate then that would automatically disqualify that ground as being zoned ag. He can not see putting the heavy restrictions of an ag zone on any parcel that the State and County see fit to tax at a higher rate.

Mr. Lane stated there are ten criteria. We considered tax status when we applied the criteria in the recommendation but the fact that a property is in is presumptive that it is in ag use. The fact that it is out is an indication that it may not be in ag use but that alone is not a determinate factor. It is an application of all the criteria.

Commissioner Mahoney asked if the County would put language into its ordinance that provides for a parcel owner that is zoned ag against his wishes to be sure he can be taxed at an agronomic rate rather than at a commercial rate.

Mr. Lane stated the opportunity to get the tax status remains the same. He does not know the criteria for getting that status, but the ARL designation under GMA is to consider tax status but it is not determinative, so the GMA itself is neutral whether someone should or should not be benefited by the tax status.

Mr. Roger Wagoner stated the aerial photos are a good place to start because they don't have all the other information that the other maps have. The aerials show what was designated in the last round and what recommendations we have for this round. The yellow indicates the former designations and the red shows the current recommendations. The process we used to get to this point is the same as we used with the Planning Commission before. Starting next meeting we will have the same tools as last time.

Mr. Lane stated that by adding lands to this evaluation some of the maps were adjusted slightly. For example, there is no map 6 as this area is covered on another map. The descriptions in the summary are relevant to the maps.

Mr. Wagoner stated the numbering sequence of the maps goes from west to east.

Commissioner Davis asked if the irrigation or drained issue is the primary driver behind these new recommendations.

Mr. Lane stated it varies. We added some categories of land: the prime if drained or prime if irrigated and some of those will reflect those soils that were examined, but they will also reflect a re-evaluation of lands (especially in the I-5 area) with prime soils that we looked at in 2007 but were not designated as ARL.

Commissioner Davis stated we are affecting 30,000 to 40,000 acres. The public needs to be aware of this major change. To get public input and let people know notification is very important.

Mr. Lane stated we would do what we can to get the word out.

Commissioner Mahoney agreed with Commissioner Davis. During the last public hearing most of the time was taken up with peoples' criticisms that they were not properly notified. He would like to see that not happen again. We must reach a much larger portion of the population than we did with the CAOs.

Commissioner Mahoney stated you are assuming the soils are drained if there is ag activity, which is not a valid assumption. There is a lot of ground that gets four or five months of use and is underwater for several months. That is not economic ag ground; that is marginal ground. Commissioner Mahoney is against government forcing individuals to prove that they are not doing something. To put the burden on a citizen to prove he does not have drained ground is the wrong way to go.

Mr. Lane stated most people share that feeling. If we had excluded the land without any knowledge we knew we would be in trouble. We had a lack of information so if the public has information that confirms that something we presumed was drained that is not in fact drained, then that is information we need in the record to support. We talked about the options of identifying what lands were or were not drained. We talked to USDA folks and we talked to County people about driving around. But even if we saw it we wouldn't know without taking a shovel out to see if there is tiling.

IV. Calendar.

The next meeting is scheduled for January 27 which will be the second ARL workshop. Chairman Jennings asked the Planning Commissioners to review the material provided.

Ms. Kincaid stated there will also be a Comprehensive Plan compliance workshop.

Commissioner Guenther stated he did not think all the maps could be gone through in one meeting and asked if there is a way to get information to the areas which will be discussed.

Mr. Lane stated he is hoping to get through first five maps at the next meeting.

Commissioner Guenther suggested the public notice states which areas will be reviewed during the workshops.

Mr. Lane stated three workshops are anticipated: January 27, February 10 and February 24. Perhaps each agenda on that meeting date would include the maps to be discussed. If the maps are not completed they can be continued to the next agenda.

Commissioner Mahoney asked if it is possible to get more information about the maps on the website, which is probably the best source of information on the ARL subject.

Mr. Rupp stated the agenda is published prior to every Planning Commission meeting and we can be more specific to a geographical area that we will be covering on that agenda, perhaps listing the maps to be looked at. All this information will be available on the website.

Mr. Lane stated the material handed out tonight will also be on the website and available to the public.

Chairman Jennings polled the commissioners for their availability at the public hearings scheduled for March 31 and April 1. Chairman Jennings will not be available for those hearings. Commissioners Guenther, Mahoney and Davis will be available.

V. Good of the Order

Ms. Kincaid stated every year there are open space applications to review. A public benefit rating system committee is required and Lewis County Code requires one Planning Commission member. Ms. Kincaid asked for a volunteer to attend one, possibly two meetings to score the open space applications. It would be a daytime meeting on February 13.

Commissioner Mahoney volunteered.

Mr. Eugene Butler had difficulty understanding the various maps as the colors for different designations are similar, particularly Map #9 showing the Toledo airport.

Mr. Wagoner apologized for the difficulty in discerning the colors. The large maps and overheads used at the hearings will be easier to read. The aerial photographs are easier to see what is being added. The red area around the airport is actually a LAMIRD.

Mr. McCormick stated the airport on map #9 is outlined because it is excluded outside of the proposed area. It looks like a line around it; in fact it is the boundaries of the parcels around it that are recommended for redesignation.

Chairman Jennings suggested using two very different colors.

Mr. Wagoner stated projecting these maps on a larger scale will make them clearer.

Mr. Dennis Hadaller stated he had been trying to get on the County website and was unable to open folders. He understands that issue had been resolved as of today.

Mr. Hadaller agreed with Mr. Butler regarding the colors on the maps. He also stated some properties are missing and some properties are split onto two different maps. Mr. Hadaller stated he did not believe notification of the meetings has been adequate and that the White Pass Shopper is read by more individuals than the other newspapers.

Ms. Doreen Milward of Cushman Law Offices stated Cushman Law Offices began representing Mr. Hadaller after the 2007 designation of his land as ARL. His land is on Map #11. As part of the July 2008 Growth Board Hearing, Cushman Law Offices presented some evidence that would answer questions as to why people's land was being designated long term commercial ag when they cannot produce anything from it. Mr. Hadaller had a soils scientist do a study and make comparisons to prime soils.

The soils looked at were Salkum and Prather soils. The materials distributed by Ms. Milward shows a unit of measurement that translates into tons of hay. The Salkum soils have 2-3 ton yield per acre compared to other prime soils in Lewis County which have a 6 ton yield per acre of hay. Because the Growth Management Act ties prime farm land to commercially significant it makes a huge difference. Because this soil is marginally acceptable for hay does not mean that it is commercially viable. The definition from GMA is long term commercially significant.

Ms. Milward wanted to make it clear that the Growth Board did not feel they could use this report when they rendered their decision. They could not look at it because the Lewis County Planning Commission had not had a chance to look at it before it went to the Growth Board on appeal. It is being presented so it can be considered now.

There is a WAC provision, 365.190.050(2) that gives the jurisdictions that are considering their designations the opportunity to not consider prime farm land designations by a soils conservationist so long as there is the rationale for not considering it. That rationale is being provided to the Planning Commission early in the process so the Commission will not hear it for the first time in a public hearing.

The soils scientist who conducted the studies on Mr. Hadaller's property may be willing to address the Planning Commission.

Mr. George Gill stated on the north end of South Scheuber there is a ten-acre permitted fill site and it appears to be designated ARL. This property did go through the permitting, CARL and SEPA processes. He asked the Planning Commission to look at this property again.

VI. Adjourn

As there was no further business before the Planning Commission, the meeting was adjourned at 8.27 P.M.