

# Lewis County Planning Commission

## Public Meeting

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

**January 27, 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 January 13, 2009
  - B. 2<sup>nd</sup> Workshop: Agricultural Resource Lands, Maps 1, 2, 3, 4
  
- III. New Business**
  - A. 1<sup>st</sup> Workshop: LC Comp Plan Compliance Action; Napavine UGA, Remove Table 4; Birchfield Population
  
- IV. Calendar**
  - Next meeting: February 10, 2009: 3<sup>rd</sup> Workshop: ARL; Public Hearing, 2<sup>nd</sup> workshop and Letter of Transmittal: Compliance Issues
  
- V. Good of the Order**
  
- VI. Adjourn**

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**Planning Commission Meeting Notes  
January 27, 2009 – 7:00 P.M.  
Lewis County Courthouse  
351 NW North St.  
Chehalis, WA 98532**

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

**Planning Commissioners Absent:** Bill Russell

**County Commissioners Present:** Bill Schulte

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

**Consultants Present:** Andy Lane, Roger Wagoner, Mike McCormick

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

**Handouts/Materials Used:**

- Agenda
- Meeting Notes from January 13, 2009
- Staff Report re: 2007 Comprehensive Plan Amendment Compliance Issues
- Table 4.1 Land Use
- Birchfield Population Allocation
- Letter from Andy Lane re: City of Napavine Revised UGA
- City of Napavine Needs Analysis
- Map: City of Napavine Zoning and Proposed UGA
- Maps 1,2,3,4
- Letter from Cushman Law Offices re: Hadaller Property
- Letter from Dearborn and Moss re: Port of Chehalis Curtis Pole Yard

**I. Call to Order**

Chairman Jennings 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 January 13, 2009. Motion was made by Commissioner Mahoney, seconded by Commissioner Guenther. The motion carried unanimously.

Chairman Jennings stated there would be a change in the agenda. The Comprehensive Plan Compliance Issues should be listed under Old Business as the workshop was opened at the meeting on January 13 and tabled. That workshop would be moved to the front of the agenda.

Mr. Barbara Kincaid explained the issues the Growth Board had with the Comprehensive Plan. These included the Napavine and Toledo UGA expansion areas which were not compliant; the Curtis Pole yard was not compliant, and there was text in the Comp Plan they found noncompliant. The staff report summarizes these issues. Toledo is not going to go back to the Growth Board with a new proposal. The City of Napavine is proposing

a smaller UGA boundary. The Curtis Pole yard will await the agricultural land use designation.

One change to the comp plan text is the deletion of Table 4.1. The County has not been able to keep the table current and since it is not a requirement of GMA, it will be deleted. The other change is the build-out for Birchfield population must be in the text of the comp plan.

There were no questions from the Commission. Ms. Kincaid stated the Planning Commission had already set the public hearing on this matter for February 10, 2009.

Mr. Andy Lane stated for this agenda item he was speaking on behalf of the City of Napavine.

Mr. Lane stated in the Commissioners' packet is a letter dated January 21, 2009 with the needs analysis and the map of the revised Napavine UGA boundary.

When the Growth Board reviewed the Napavine UGA it stated the market factor on the needs analysis was too high without sufficient justification for the Board. It did not like at what point of the analysis the market factor was applied. Napavine prepared a new needs analysis using a much lower market factor of 25% and applied the market factor only to new growth as opposed to lands accommodating the existing population.

Another thing the City did was assume a full build-out density of 4 units per acre for residential use. This is through the entire planning period through 2025. They assume that density not only for new growth but for the existing city and existing UGA. The difference is: in 2007 it was a 612 acre UGA; for this analysis it is a little less than 404 acres.

Mr. Lane pointed out the changes on the map.

Commissioner Mahoney asked if there is a conflict with this proposal with the City of Chehalis or any other jurisdiction.

Ms. Kincaid stated the UGA expansion proposals begin with discussions with all the cities through the Planned Growth Committee. Before this 2007 adoption was acted upon, the City of Chehalis was part of that discussion and raised no objection.

Commissioner Mahoney asked if staff had any issue with the UGAs coming together and possibly not allowing open space between them.

Ms. Kincaid stated staff has no concerns with the proposal before the Commission.

Mr. Lane stated the 2007 UGA was adopted and is valid. It was found noncompliant but the Growth Board did not invalidate it, so it is still on the books. Mr. Lane pointed out on the map the areas that will be removed from the original proposal.

Ms. Kincaid stated when this is those areas would revert back to the previous zoning, which was RDD 5.

Chairman Jennings asked if there were any other questions. Hearing none a motion to move this to public hearing was in order.

Commissioner Mahoney made the motion to move this to public hearing on February 10; seconded by Arny Davis. Motion carried.

**B. 2<sup>nd</sup> Workshop: Agricultural Resource Lands Maps 1, 2, 3, 4**

Chairman Jennings stated this is not a public hearing but comments can be made during the Good of the Order.

Mr. Lane stated on this agenda item he is representing the County. He explained that the Growth Board found issues mostly with lands that were not designated in 2007. Generally, those lands that were designated ARL in 2007 were not re-evaluated. Lands that were not examined were mainly those lands that had non soil dependent uses that did not occur on prime soils and uses that occurred on soils that were prime if drained and prime if irrigated and agricultural uses on lands that were previously designated as Forest Resource Lands. Lands that were re-evaluated are along I-5. The Growth Board disagreed with how the County applied the criteria in that area.

The process that staff and consultants went through was the same process that the Planning Commission went through in 2007. Many hours were spent reviewing soils maps, GIS data, tax status, aerial photos and parcel sizes. We went down the entire list of designation criteria. The threshold question is: Is this land devoted to agriculture? Is it being used or capable of being used for agricultural production?

We also considered the ten WAC criteria that were established by CTED to help jurisdictions designate agricultural land. It is the ten WAC criteria that attempt to apply the GMA definition of long-term commercial significance. The ten criteria are: availability of public facilities, tax status, availability of public services, relationship or proximity to UGAs, predominate parcel size, land use settlement patterns and compatibility with ag practices, intensity of nearby land uses, history of land development permits issued nearby, land values under alternative uses, and proximity of markets. The single criterion is determinative; the idea is to consider all of these and make a determination if the land is or is not agricultural resource land.

There are other factors that seem like they should be considered; however we are bound to follow the statute and criteria and the way the courts and the Growth Board have applied the criteria in the statute. As we have discussions on these items there will be some questions that come up that are very relevant to whether some property may or may not be good farm land; you may hear us respond by taking this back to the GMA and WAC criteria to see whether or not a particular comment applies.

Mr. Mike McCormick stated there has been a lot of discussion within the Planning Commission and with the Technical Advisory Committee about what is commercial agriculture. While the statute uses the language the factors that lead to that designation preclude us from having some considerations of how productive a piece of land is, how much hay can you get off of it, or how many animal units you can assign to it. That is something we have tried in the past and what we presented to the Hearings Board. It was not successful and is not reflected in subsequent court decisions.

The primary determining factor is the USGS soils designation. That is the consideration as to what is in or what is out. The statute and the WAC and court decisions are constraining in how that can be applied. Staff and consultants worked very hard at being consistent and applying the criteria in the same manner across the County. In the past it was not clear that that had been done and it created a problem when we went before the Hearings Board.

Commissioner Mahoney asked, at this point if the NRCS maps say it is prime ground, we are going to consider it. There will be no consideration of observed productivity or economic return.

Mr. McCormick stated that is correct. Both of those issues we tried to interject in different ways in two previous efforts and they have been rejected. The productivity is reflected in the classification that USGS gives it. That is the constraint you have as you consider this.

Mr. Roger Wagoner stated another factor the Growth Board directed us to look at was the non-soil dependent uses: nurseries, chicken farms, fish hatcheries, Christmas trees. On those we did not use the soil factor but we used the location, parcel size, proximity to other agricultural resource lands. The memo states the way in which we addressed those particular uses. They are shown on the map as symbols.

Mr. Lane asked Ms. Kincaid to bring up Map #1 on the screen. Mr. Lane stated the biggest difference between this recommendation and what was considered in 2007 is the consideration of prime if drained soils. A number of the parcels with prime if drained soils are in tax or timber tax status. For soils that were classified by NRCS as prime if drained we used aerial photos to identify whether the area had been cleared or if it was still in trees. If it was obviously cleared or we could detect physical evidence of ditching or other drainage, the presumption was that it has been drained and has been in agricultural use.

Mr. Lane stated the yellow outlines on the aerial maps were the areas designated in 2007. The red bordered lands are those proposed for designation now. Most of these were not examined previously.

The question for the Planning Commission: Are there areas you see where we have not applied the criteria correctly. Commissioner Mahoney pointed out a couple of parcels where the property has been split.

Mr. McCormick stated in 2007 if we designated a property we included the entire property. We attempted to apply that here.

Commissioner Mahoney stated in the past we tried to keep ag lands in groups or areas. An example is the small parcel on Deep Creek Road. Why should this small parcel be zoned differently in the middle of the others?

Mr. Lane stated one of the factors is predominate parcel size. This particular group of parcels is approximately 120 acres. The question when there is this much acreage and is apparently in ag use what is the justification for not including it.

Commissioner Mahoney stated we talked about 500 acre areas at one time. Is 120 acres at the bottom of a valley surrounded by timber valuable to anyone to zone it ag?

Mr. Lane stated the County has not adopted an ag blocking rule. Under the WAC criteria, this fits the criteria.

Commissioner Guenther asked about the red outlines on the colored map that are labeled "ag not cultivated".

Mr. Lane explained that the tax status shown on the solid color map identifies the parcels that are in some ag or timber tax status. Those are not all necessarily proposed for ag designation. The aerial map does not include identification of the tax status of parcels.

Commissioner Davis referenced a parcel on Bunker Creek Road. He asked if parcel ownership could be identified and asked what the viable options are if they do not want to be in ag land or that they don't meet the criteria.

Mr. Lane stated at this point the option is to provide information that they are not in ag tax status or perhaps they have a house on the property. The aeriels are from 2003 and may not be accurate. They can ask a soils scientist to test the soils to show the soils are something other than what NRCS says they are.

Commissioner Davis asked if staff could provide a handout that states those options.

Mr. Lane stated staff could do that; however someone could look at the criteria, the soils and the devotion to agriculture and point out that their land should not be designated.

Ms. Kincaid stated the property belongs to Sun-Ton LP.

Commissioner Tausch asked Mr. Lane if the Commissioners are not to consider commercial viability.

Mr. Lane stated we considered commercial viability in the context of long-term commercial significance. The consideration of long-term commercial significance is what the ten criteria in the WAC are to accomplish. It is not a measure of whether or not

you can make enough to pay off your farm in a year. The Growth Board has looked at economic return and has determined that it is not the measure. We are looking at a commercial viability in the context of the ten WAC criteria. The idea is that those criteria capture commercial viability.

Commissioner Tausch asked if that is what the State Supreme Court ruled on that issue.

Mr. Lane stated the Court identified that the WAC criteria is what implements the long-term commercial significance.

Commissioner Tausch asked about a parcel on the corner of Twin Oaks and Route 6. It appears very small.

Ms. Kincaid stated the size of the western portion is 55.43 acres and the eastern portion is 4.57 acres and is owned by the same person.

Mr. Wagoner stated when they looked at the aerial photo it was apparent that there was agricultural activity being conducted on the property.

Mr. McCormick stated the property is also contiguous with property that was designated in 2007.

Commissioner Mahoney stated frequently flooded areas are a critical areas concern but not an ag designation concern.

Mr. Lane stated that is correct. The threshold question is: is it devoted to agriculture and that is defined by the Supreme Court as currently being used or capable of being used for agriculture. It does not specify if it is part of the year or a certain number of months.

Commissioner Guenther asked if the proposed ag designation on Map #1 is about double of the 2007 designation. The consultants stated yes.

Commissioner Mahoney stated the majority of the newly designated areas are all in flood plains.

Chairman Jennings asked if there is a total number of acres per map for new designation.

Mr. McCormick stated that has not been done but it is possible to do.

Chairman Jennings stated she would like to see the 2007 acres that were proposed plus the additional acreage to be considered.

Mr. Wagoner stated the total of 2007 and 2008 is about 86,000 acres. In 2007 the total was at 47,000. Acreage on each map can be provided.

Chairman Jennings proceeded to Map #2.

Mr. Lane stated most of the parcels to be considered on this map are prime if drained. The review and analysis would be the same as for Map #1.

Commissioner Mahoney stated most of the areas on Map #2 are areas we ruled out before because of location and marginal value to agriculture or slopes. For economic reasons they were not considered before.

Mr. Lane stated most of these lands were not considered before because the soils are prime if drained as opposed to just prime.

Commissioner Mahoney stated they are marginal soils at the edges of areas that were previously designated.

Mr. Lane stated that is correct.

Commissioner Davis pointed out parcels on Boistfort Road just north of Hubbard Road stating he believed there are several houses on less than five acres.

Mr. Lane stated the houses are associated with the fields that appear to be in active agriculture and across the road is property that was already in ag designations and it seemed unusual to exclude those and put them in a rural designation.

Map #3

Mr. Lane stated the additional lands that were evaluated were also prime if drained.

Commissioner Mahoney understands that prime if drained is assumed unless the land owner proves otherwise. What about prime if irrigated?

Mr. Lane stated the soils were identified and we looked at the aerial photos to see if the land was cleared or was an active farm, or if we could see evidence of artificial drainage. If it was cleared and appeared to be farmed, we assumed it was drained. If the land was cleared and appeared to have ag activity on it, we assumed it was being irrigated. We did look at some water rights data but it is extremely difficult from that date to identify water rights, and even if there are rights it is difficult to tell if they are still in use. If a property owner has different information, he needs to advise of that at the public hearing.

Mr. Wagoner stated in the memo packet there is a memo on prime if irrigated and it is a rather small amount of acreage.

Mr. Lane stated prime if drained soils includes nearly 10,000 acres. Prime if irrigated soils includes 245 acres.

Map #4

Mr. Lane stated Map #4 addresses some areas along I-5. Some of the land that was reviewed was new soils, prime if drained, but much of the land was just re-evaluated because it had prime soils and was along I-5 and the Board wanted us to look at it again. The most significant difference in how this land was evaluated this time was consideration of potential UGA expansions. The Growth Board made it clear that anticipated future UGA expansions that were not substantiated with a needs analysis should not be a basis for excluding areas from ARL designation. The decision was also clear that if in the future there is a needs analysis to support a UGA expansion into an area that is currently designated ARL it can be re-designated.

Most of the areas proposed for inclusion are on the west side of I-5, north of Napavine and some property south and east of Napavine.

Commissioner Tausch referred to the property at Frogner Road and Brown Road West. There seems to be good sized farming there and on the southeast corner there are Christmas trees. He asked the reason for not including that and at the least it should be marked "ag not cultivated." Perhaps soil type exempted it.

Commissioner Davis stated there is some property on Cousins Road that is similar.

Mr. Lane asked to have that brought up on the screen. Some of this area is prime soils; some is prime if drained and some is not in prime soils at all.

Commissioner Tausch stated it is at the top of a gently sloping hill.

Ms. Kincaid brought up the soil types and the most of the property came up as prime. The parcel size is 77.64 acres.

Commissioner Tausch asked about the parcel to the south of that. Ms. Kincaid stated that is listed as farmland of statewide significance.

Commissioner Tausch asked what that means.

Mr. Lane stated farmland of statewide significance is different from the designation criteria and we are using prime and prime if drained.

Commissioner Mahoney asked about the property on Centralia Alpha Road. Mr. McCormick stated he believed that to be a poultry operation.

The parcel on Cousins Road was a poultry operation at one time and it is now a heifer raising operation.

There were no other questions regarding Map #4.

Chairman Jennings asked for Map #5.

Mr. Lane stated the agenda would go through Map #4. We can start Map #5 but at the next workshop we will need to work on Map #5 again so the public is aware of the discussion.

The Commission decided not to review the materials twice.

Mr. Lane stated towards the end of this process there would be proposed revisions to the comp plan policies, especially those that relate to how the soils were examined and how this process works, based on the changes that we are making now: prime if drained and prime if irrigated.

Ms. Kincaid stated the Planning Commission received two letters received through the Community Development Department. One, dated January 13, 2009, is from Cushman Law Offices and includes a study from a soils scientist regarding Dennis Hadaller's property. The other is dated January 22, 2009 from Dearborn and Moss regarding the Port of Chehalis Curtis Pole Yard. These are for the Commissioners' review.

#### **IV. Calendar**

The next meeting will be February 10, 2009 and will include a public hearing and second workshop on the Comprehensive Plan compliance issues and Letter of Transmittal to the Board of County Commissioners, and the 3<sup>rd</sup> workshop on ARLs.

#### **V. Good of the Order**

Mr. Dennis Hadaller complimented the Planning Commissioners for the time they put in. He stated the Planning Department is there as the Planning Commission's resource but it is the Commission that represents each district of Lewis County.

Mr. Hadaller hired a soils scientist and Mr. Hadaller dug holes on his property for the testing. He offered to bring that scientist to the Planning Commission to be questioned if the Planning Commission would like to talk to him.

The County Assessor assessed three 40-acre parcels along Highway 12 at over \$500,000 per forty. If he had not caught that, he would be paying taxes on \$500,000 for three parcels. They classified it as one house in 5 acres.

Mr. Gene Butler is concerned about the whether the full definition of agriculture is being applied. The Growth Board states it is when the land is used or capable of being used for agricultural production. "Capable of being used" is land that is not actually being used which is an important distinction. Land that is now devoted to trees that does not qualify for Forest Resource Land is capable of being used if it is on prime soil.

In August of 2007 the consultants proposed that you look at several areas of land that would qualify as capable of being used for ag. Some of that was rejected because it did not appear to be capable. The Growth Board states that the land is capable of being used for agricultural production and is of long term significance if the property contains a soil

type the USDA has found suitable for ag production. If it met the ten criteria of WAC then it should be considered as agricultural land.

Mr. Butler hopes the consultants look at the criteria and reexamine those areas.

Commissioner Mahoney stated the Grange News included a report written by the University of Nebraska, Lincoln. The report is well worth reading if anyone is interested in what the Planning Commission is doing. There are many counties and states, including King County and Washington State that were researched. It deals with issues facing the loss of ag lands in urban settings. The American Farmland Trust website will get to the report.

**VI. Adjourn**

The meeting was adjourned at 8:35 P.M.

RAFT