

Lewis County Planning Commission

Public Hearing

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

February 10, 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 27, 2009
 - B. Public Hearing and 2nd Workshop and Letter of Transmittal: Compliance Issues
 - C. 3rd Workshop: Agriculture Resource Lands, Maps 5 ,7, 8, 9, 10 and others as time allows

- III. Calendar**

The next meeting will be February 24, 2009: Workshop: ARL Maps 11, 12, 13, 14; Public Benefit Rating System

- IV. Good of the Order**

- V. Adjourn**

This meeting site is barrier free.

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Planning Commission Meeting Notes
Public Hearing
February 10, 2009 – 7:00 P.M.
Lewis County Courthouse
351 NW North St.
Chehalis, WA 98532

Planning Commissioners Present: Bob Guenther, Mike Mahoney, Arny Davis
Planning Commissioners Excused: Richard Tausch, Bill Russell, Rachael Jennings
County Commissioners Present: Bill Schulte
Staff Present: Glenn Carter, Barbara Kincaid, Pat Anderson
Consultants Present: Andy Lane, Cairncross and Hemplemann; Mike McCormick, Roger Wagoner; BHC Consultants
Others Present: Please see sign-in sheet

Handouts/Materials Used:

- Agenda
- Meeting Notes from January 27, 2009
- Staff Report re 2007 Comprehensive Plan Compliance
- 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
- Agricultural Resource Lands (ARL) Maps 5, 7, 8, 9, 10
- Staff Report re: ARL Compliance from January 13, 2009

I. Call to Order

Vice Chair Mahoney called the meeting to order at 7:06 P.M. Commissioners introduced themselves. Vice Chair Mahoney stated there would be no public hearing on the Comprehensive Plan compliance issues since there was not a quorum present. The public hearing was rescheduled for March 10, 2009.

II. Old Business

A. The meeting notes were not approved due to the lack of a quorum.

B. 3rd Workshop: Agricultural Resource Lands, Maps 5, 7, 8, 9, 10. Vice Chair Mahoney asked Mr. Lane to summarize the process and criteria for the ARL designation for the public.

Mr. Lane stated the Planning Commissioners who are not present tonight would have the benefit of reviewing the minutes and statements made during the Good of the Order and any written testimony submitted.

Vice Chair Mahoney stated the Planning Commission received two documents from the Cushman Law Offices and a letter from Mr. George Gill that will become part of the record.

Mr. Lane, Cairncross and Hemplemann, stated he would give an overview of where the County is in the ARLs process.

In 2007 the Planning Commission and BOCC went through a process to designate agricultural resource lands of long-term commercial significance as required by the Growth Management Act (GMA). The Growth Management Hearings Board reviewed that designation and identified certain types of lands that were not considered for review and identified some lands that the County considered but the Growth Board disagreed with how the County considered those lands. This process is for reviewing the lands that were not considered in 2007 and some of the lands that were evaluated and need to be reconsidered. Specifically lands that need to be reconsidered are lands that are on prime agricultural soils in the vicinity of I-5. The lands that need to be reviewed for the first time are agricultural uses in areas that have been designated Forest Lands of long term commercial significance and also those lands that have soils that are considered prime if drained or prime if irrigated.

Other areas to be considered for the first time are those agricultural uses that are not dependent on the soil: poultry operations, Christmas tree farms, horticultural operations, fish hatcheries. Any of those types of uses that occurred on prime soils were considered in 2007 and generally won't be considered this time.

Vice Chair Mahoney asked if there were copies of the staff report dated January 13, 2009 available to the public. This report is a more detailed explanation of what Mr. Lane just explained. Copies were made to distribute to the public.

Mr. Lane stated the lands that have to be considered for potential agricultural resource land designation (ARL), under the GMA, are those lands that are devoted to agriculture, or lands that are being used or capable of being used for agricultural production and lands with prime soils, according to National Resources Conservation Service (NRCS). In determining what lands are examined, the first determination is what lands are devoted to agriculture, then determine if the land is of long-term commercial significance. Soils are not the only indication. There are 10 specific criteria set by the Washington Administrative Code (WAC) and none has priority over another. Those ten criteria are: the availability of public facilities; tax status; availability of public services; proximity to UGAs; predominant parcel size (generally at least 20 acres); land use settlement patterns; intensity of nearby land uses; history of land development permits issued nearby; land values under alternative uses; proximity to markets.

Vice Chair Mahoney asked for an explanation of the difference between public facilities and public services.

Mr. Lane stated public facilities are things like electricity, sewer, water, etc. Public services mean police and fire protection.

Vice Chair Mahoney wanted the public to be aware that the documents provided at the Planning Commission meetings are available on the Lewis County website. Ms. Kincaid stated if someone does not have a computer the same materials are available at the Community Development Department at 2025 NE Kresky Avenue in Chehalis.

Vice Chair Mahoney asked if there were questions regarding the ten criteria. There were none and discussion commenced with Map #5.

Mr. Lane stated Maps 1-4 were discussed on January 27 and that some maps overlap each other. The red-bordered properties on the aerial maps are the lands that are proposed for ARL designation. The yellow-bordered land is land that was designated in 2007.

Vice Chair Mahoney stated poultry operations were identified by the aerial maps and are included in the analysis. Two areas have been identified as being poultry operations at one time but are not presently and those have been removed from the designation proposal. The maps are from 2003 and may not reflect what is actually happening on some lands now.

Mr. Lane stated staff and consultants chose not to consider timber lands since “capable of being farmed” would mean clear-cutting and removing stumps.

Commissioner Guenther stated there are 1300 acres along Middle Fork Road that are proposed to be a development. Has that been designated as non agricultural land?

Mr. Lane stated developments that have vested applications can still be developed. The property in question is Birchfield and there is some development there already.

Mr. Mike McCormick stated generally if land was in standing timber it did not meet the test of capable of being farmed because of the cost associated with converting standing timber. Regarding the Birchfield site, there is a mix of prime and non prime soils, and considering that and some small parcels around, the area was excluded.

Poultry operations were specifically culled out because they are non-soil dependent. There is still a decision to be made as to whether or not to designate them.

Commissioner Guenther asked if designated ARL land further up Middle Fork Road includes the former DeYoung’s dairy.

Mr. McCormick stated the consultants are not familiar with the names of former owners. From the aerial photo it appeared this was farmed and capable of being farmed. Property ownership can be brought up on the laptop if it is needed.

Mr. Lane stated many of the lands on this map that are proposed for ARL designation are on soils that are prime if drained and were not examined in 2007.

Commissioner Guenther stated the cleared fields on Oppelt Rd. used to be berry farms.

Mr. Lane stated a lot of the land on Oppelt Rd. is designated forest resource land.

Mr. Lane stated there is no Map #6; those parcels have been included on other maps.

Map #7 includes Winlock, Toledo and areas along I-5. There is an area that was designated ARL in 2007 but is not shown on this map and that will be corrected. It is south of Toledo along Ray Rd and surrounds mining land. Most of the areas on this map are prime if drained and were not considered in 2007.

Vice Chair Mahoney stated immediately west of I-5 is the Winlock UGA and some areas that have recommended parcels for ARL inclusion. On the east side of I-5 are some small, isolated parcels that are immediately adjacent to some heavily developed areas. What is the rationale for considering those between Jackson Highway and I-5?

Mr. Lane stated the scale of each map is different and it is difficult to tell parcel size by looking at them.

Mr. McCormick stated three of those parcels west of Jackson Highway are associated with poultry and that is why they have been included.

Vice Chair Mahoney referred to Lane Drive and the parcel near Big Sky Drive. The Lane Drive parcel appears to be small and it is isolated all by itself and he does not understand the reason for including it.

Mr. McCormick stated the northeast corner and the southwest parcel are both poultry, and it is believed there is a nursery operating in that area.

Mr. Lane stated first it is determined if it is devoted to agriculture. In this case it is on prime soils and the aerial photos indicated it has been in some agricultural operation. Adjacent to this parcel is a poultry operation, so the devotion to agriculture is there and the 10 WAC criteria were considered as well.

Ms. Kincaid stated the size of the Lane Drive parcel is 39.5 and the adjoining parcel is 19.34 acres, totaling a little less than 60 acres.

Vice Chair Mahoney stated this area is about a mile from Spiffy's Restaurant and has commercial development on all sides of it and he knows the ground is poor and wet.

Vice Chair Mahoney stated clarification questions may be taken from the audience to ensure everyone understands what is happening during this process.

Map #8 generally shows lands that are prime if drained and there is a considerable amount in timber. The eastern portion of Map #5 is included in Map #8.

In response to a question from the audience, Vice Chair Mahoney stated the areas outlined in yellow were designated ARL in 2007. The areas outlined in red were not included in 2007 and are being considered this time.

To further clarify, Mr. Wagoner stated on ag resource lands any type of agricultural use is allowed; single family residences are allowed and the density requirement is one house per 20 acres (RDD 20). The land is also subject to a tax classification that would allow tax levies to be lower than if the land was not designated ag.

Vice Chair Mahoney stated there are restrictions on activities and structures other than a single family residence on ag resource lands.

Mr. Mark Bigelow, Olympia Master Builders, asked for clarification on the Growth Management Hearings Board decision, whether the County is to consider additional lands, or consider and adopt additional lands.

Vice Chair Mahoney stated it would be potentially both. The lands outlined are being considered and there will be public hearings for public input. The Planning Commission will then make a recommendation to the Board of County Commissioners based on all the studies and public input. The Growth Board asked the County to reconsider more lands for possible designation.

Mr. Lane stated the Growth Board found the County out of compliance with the requirements of GMA. They identified specific things the County did not do and those are the things that are being reviewed now. Not all lands that fit the new categories that the Growth Board identified that the County needed to consider are being proposed for ARL designation.

Commissioner Guenther referred to the area around Centralia Alpha Rd and Dluhosh Road, which is a Christmas tree farm. He stated he hoped that the little jog on the left side takes out the Alpha Cemetery.

Mr. McCormick stated there were a couple of cemeteries discovered during this process and they have been eliminated.

Commissioner Guenther stated on Map #8 along SR 508, the land on the right is a 400-acre tree farm, timber, not Christmas trees.

Map #9 includes the Toledo-Winlock Airport. Most of these lands are prime if drained. An issue with Growth Board in 2007, was the County took the position that it could not tell if the land was drained or not and therefore not considered to be prime. The Board stated the County must try to determine whether they are drained or not. We therefore examined aerial photos and tried to make a determination if they had been cleared and

were in agricultural operation. For example, we saw a very straight ditch we assumed the fields were drained. Also, the default assumption was if they are cleared and appear to be in agricultural use, they had been drained.

Vice Chair Mahoney has a concern about inclusion of any of the land between Spencer Rd, Jackson Highway and Schoolhouse Lane and the area immediately surrounding the airport. Some land near the river is quite steep and some is heavily parcelized already.

Mr. Lane stated much of the land closer to Spencer Rd, has prime soils and not just prime if drained. The capability classification that NRCS applies takes into consideration the slopes. They have determined that this land, if it has prime soils, is capable of being farmed. It might be worth looking at parcel size.

Mr. McCormick stated since the parcels were contiguous and under the same ownership, they were considered a single parcel.

Commissioner Davis stated this is the first time he's seen the criteria of ownership of many parcels and is ownership a criteria?

Mr. Lane stated when the consultants examined these and made recommendations, they first looked at activity on the parcels. If it looked like a continuous operation, it was more of a factor than ownership. It made sense that if all parcels had the same or similar crops and if the ag practices covered all parcels without regard to property lines, they should be included.

Following discussion, Mr. Lane stated if the property is already divided into 5-acre lots, you can build on it if it is a legal lot of record and it meets the health department requirements. These lots must have been recorded by 1999 with the Auditor.

Vice Chair Mahoney recessed the meeting at 8:09 and reconvened at 8:19.

Map #10 has a number of nurseries identified through State Department of Agriculture.

Vice Chair Mahoney stated there are two types of nurseries: retail with nothing in the ground and those with trees and shrubs year around that require ground.

Commissioner Guenther identified an area on Frazee Rd. as a timber farm. Mr. Lane stated this would be checked further.

Map #11 shows mostly lands that are prime if drained and one parcel that is identified as a poultry operation but nothing shows on the aerial photo.

Vice Chair Mahoney closed the workshop.

III. Calendar

The next meeting will be February 24, 2009, 7:00 P.M. There will be a workshop on the Public Benefit Rating System and another workshop on the ARL designation. Vice Chair hoped to get through the rest of the maps (12-18) during that meeting.

Vice Chair Mahoney reminded everyone that the public hearing on Comprehensive Plan Compliance that was canceled tonight will be held on March 10, 2009. He asked if there were comments from the Commission or Staff before the Good of the Order.

Commissioner Davis stated he had read the letter from Cushman Law Offices and would like staff and consultants to give their feedback on the points in that letter.

Mr. Lane stated that can be done.

Ms. Kincaid stated there are copies of the Flood Hazard Management Plan for each of the Planning Commissioners. This is the adopted copy and for the Commissioners' records only.

IV. Good of the Order

Vice Chair Mahoney stated on Wednesday night there will be a Flood Authority public meeting at the Veterans Museum, 6:00 P.M. The Authority is asking for public input regarding the flooding and mitigation efforts.

Mr. Ron Mauel owns two properties at 375 and 337 Hamilton Rd. He identified WAC criteria that pertain to his properties. There is a UGA directly across the road from his property; his parcels were filed with the County before 1999. Currently it is ag for tax purposes; there have been improvements near his property, specifically the new Exit 74. There are two easement roads between two exits that are two miles apart. Mr. Mauel stated his concern is the City of Chehalis moving into commercial properties right across from him which will create heavy car and truck traffic with his cows right across the road. There is a potential for harm to his fence, property and animals.

Regarding prime soils, his property is not drained. The FEMA maps show flooding in this area. After the 1996 flooding, all the topsoil washed away and it is not suitable for crops. It will need to be kept in grass.

Mr. Mauel asked the Planning Commission to review his properties again and the criteria.

Ms. Julie Powe represented the Balmelli Family Limited Partnership. They own several acres next to the LaBree Rd interchange. They are requesting to not be classified as agriculture land. City water runs right by their land, sewer is less than a quarter mile away and they are across from a UGA. Most of the land is divided into parcels less than 10 acres and it is undrained.

The State needed some property for the on and off ramps. The Hamilton Rd. North and LaBree Rd intersection is located right by the Balmelli property. The State gave us unrestricted access to our property and everything is in place for future development of

that property. Ms. Powe believes it is in the County's best interest to keep it out of ARL since it is close to everything they need.

Vice Chair Mahoney asked staff and consultants to take another look at the properties between Rush Road and the 13th St. exit and east of Highway 603, west of I-5. That is low, wet ground, not drained, and has a higher commercial value than it would as ag.

Mr. Dennis Hadaller, Mossyrock, distributed a handout to the Planning Commission concerning 196 acres he purchased in 1985. It was prairie ground and timber and had a commercial business on it in 1912. Since then he has added four parcels for a total of 313 acres.

Ms. Yvonne Johnson, 4088 Cooks Hill Rd., referred to Map #1. She requested that her property go back to RDD-5 which is what it was before the moratorium. It is next to the urban growth area.

Mr. Robert Purdy has a 5.68 acre parcel off of Plomondon Rd in Toledo. There are five acre pieces around him as well as the Toledo Telephone Company, Sorenson Trucking, and they are within walking distance of the Toledo High School. He would like to stay with what is already designated.

Ms. Doreen Milward, Cushman Law Offices representing Dennis Hadaller, asked if her letters would be posted on the County website. Mr. Lane stated letters are not posted on the website, although they are part of the record.

Mr. Hadaller's land is shown on the parcel map only, not the aerial, on the lower right hand corner.

Ms. Milward stated during the 2007 ARL process, soils scientists stated that the land capability system was never intended to show that it was productive. That seems to correspond with the testimony of land owners stating they could not get a decent crop off of their land, yet it is being designated as prime.

Mr. Hadaller's scientist, Dr. Small, rated different Class II soils labeled as prime and the Salkum and Prather soils were much less productive than the other prime soils. There has been a mistake made in that the Growth Board grasped onto this prime soil and made it into another term from what it was originally intended. This would account for the discrepancies between what people say their land is capable of and what the Growth Board says. The offer still stands for Dr. Small to attend a meeting to explain his findings, and hopefully for more than the three to five minutes that is allowed during a public hearing.

Ms. Milward does not see where Lewis County vs. WWGMHB is being used to the County's advantage. The Supreme Court stated in that decision that they would look at the question of what constitutes long-term commercial significance. They determined it would be indicated by soil, growing capacity, productivity, near populated areas or

vulnerable to more intense uses. That was a clause that was added as an “and”. It not only would it not be characterized by urban growth and capable of being farmed “and” productivity of agricultural products for long-term commercial significance. These are words that the Supreme Court used to tell the Growth Board that they needed to figure out what was the proper designation for lands in Lewis County. The Growth Board tended to minimize a lot of what the Supreme Court stated. The Supreme Court also allowed the County to ask how many acres are needed for agricultural production, and that has not been addressed by the County.

The categorization of the Salkum and Prather soils are shown to be drastically lower than other soils and that is enough to eliminate those soils categories from your consideration as prime lands.

We have been told by your Prosecuting Attorney’s office that the County made no decision as far as designation of lands in 2007. Because of the moratorium, and in spite of the Ordinance, it is not an effected decision.

There is a WAC provision that is stated in Ms. Milward’s letter. Paragraph one states the soil classification system must be used but paragraph two states that if you can show the rationale for not using it, you don’t have to. You have the rationale: you can tell them that this is not appropriate.

Mr. Mike McGraw, Onalaska, stated the parcel he is referring to is on Leonard Rd and Railroad St. is shown in yellow. It contains nine houses on separate parcels, a church and water and sewer is available on Railroad St. It has some good soils but with the services that are there it should not be in ARL. He would like reconsideration on those parcels.

Mr. Jay Hall owns property shown on Map #5. He stated when this meeting affects so many land owners there needs to be more advance publicity for who it will affect.

Mr. George Gill stated some criteria for the ARL designation is drained and irrigated. A lot of the towns and cities have picked up water rights in this area for future expansion which makes it difficult for those who are dedicated as ARL to be productive. Some of these soils are very dependent on water. What guarantee would the ag resource land owners have that they could get water rights for designated ARLs.

Vice Chairman Mahoney stated he can almost guarantee there will not be water rights. That is DOE and is separate from what we are doing. The Hearings Board determined years ago that irrigation was not a criterion to be considered; that there is enough precipitation. As a farmer, Mr. Mahoney disagrees with that statement.

Vice Chair Mahoney stated people need to get statements to the Planning Commissioners in writing. A lot of the criteria from the Hearings Board we do not agree with but those are the legal requirements and this County has been in a moratorium that is seriously hurting us if we can’t start developing. All factual and objective information is encouraged.

WAC criteria are available on the Lewis County website as well as the Washington Administrative Code website.

V. Adjourn

The meeting adjourned at 9:11 P.M.