

Lewis County Planning Commission

Public Hearing

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

March 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 February 24, 2009
 - B. Public Hearing: 2007 Comprehensive Plan Compliance (including amendments to Population Allocation Table of Comprehensive Plan, Table 4.1 of Comprehensive Plan, Curtis Rail Yard LAMIRD designation, Napavine UGA and Toledo UGA)
 - Workshop and Letter of Transmittal
 - C. Workshop: Agriculture Resource Lands
 - Proposed Comp Plan Amendments related to ARLs – ARL-related amendments to Lewis County Comprehensive Plan, Land Use Element
 - Proposed Amendments to LCC 17.30 related to ARLs – ARL-related amendments to LCC 17.30
 - Zoning Map Corrections related to ARLs - Proposed ARL-related zoning map amendments and corrections
 - Set Public Hearings for March 31 and April 1, 2009

- III. Calendar**

The next meeting will be March 24: Public Hearing: Open Space; 2nd Workshop and Letter of Transmittal

- VI. Good of the Order**

- V. Adjourn**

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

**March 10, 2009 – 7:00 P.M.
Meeting Notes**

Planning Commissioners Present: Rachael Jennings, Bill Russell, Mike Mahoney, Richard Tausch

Planning Commissioners Excused: Arny Davis, Bob Guenther

County Commissioners Present: Bill Schulte

Staff Present: 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 February 24, 2009
- Staff Report Dated December 30, 2008
- Table 4.1 of Comprehensive Plan
- Page 4-17 of Comp Plan re: Population Allocation for Birchfield FCC
- Napavine Needs Assessment and UGA Map
- Proposed Comp Plan Amendments re: Land Use
- Proposed Amendments to LCC 17.30 related to ARLs
- Zoning Map Corrections related to ARLs

I. Call to Order

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

II. Old Business

A. The Chair entertained a motion to approve the meeting notes from February 24, 2009. Motion made by Commissioner Mahoney, seconded by Commissioner Tausch. The motion carried unanimously.

Chairman Jennings moved to item C on the Agenda and recognized Mr. Andy Lane, Cairncross and Hemplemann.

Mr. Lane stated the Planning Commission has gone through the ARL maps and must now consider the Comp Plan Amendments that will reflect the additional lands being considered in 2009 and the slight change in methodology from 2007 in response to the Growth Board compliance order. There are corresponding proposed amendments to the Lewis County Code, Chapter 17.30.

Chairman Jennings had a point of order: Could votes be taken since there are only four Commissioners present?

Ms. Kincaid stated four members represent a quorum. Ms. Kincaid also stated that included in the Commissioners' packets are three letters regarding the ARL designation from Robert Purdy, Cushman Law Offices and Mike and Kaye McGraw. These should be read by the Commissioners before the next ARL workshop.

Mr. Lane stated the Comp Plan amendments are basically clean up. In the existing conditions section of the Comp Plan some numbers have been changed. The previous numbers were based on the 2002 census of agriculture. We now have a 2007 census of agriculture and therefore revised numbers. In #2, Agricultural lands classifications, is a policy that describes what lands are in the universe to be considered for potential agriculture lands of long term commercial significance. In 2007 the County adopted a list of soils by the specific soil name, however the designations are based on the National Resources Conservation Service (NRCS) land capability classification: is it prime if drained or prime if irrigated, as opposed to the specific soils name. It was easier to delete the names and rely on the NRCS land capability classifications.

The next proposed amendment, #3, is with the actual Natural Resource policies. The first policy is NR 1.3. The proposed amendments clarifies that for consideration for ARL designation as a result of the Growth Board compliance order, the County is also looking at not just prime farmland soils but prime if drained and prime if not frequently flooded or protected from flooding during the growing season, and prime if irrigated. We clarified that these land capability classifications from NRCS were also evaluated and explained when lands that have soils classified as prime if drained and prime if irrigated. Also added was a sentence about non-soil dependent agriculture uses, another area where the Growth Board wanted consideration for ARL designation.

Policy NR 1.5 adds some language to the discussion of non-soil dependent ag activities to clarify that these lands could be designated for ARL if appropriate.

Mr. Lane asked for questions.

Commissioner Russell asked why page 5 of 5 is included in the packet.

Mr. Lane stated how they were amended in the Resolution in 2007 included all the policies under the Natural Resource Lands objectives and policies. Policies needed to be re-numbered in 2007 and Mr. Lane copied the entire list of policies. Policies 1.6 through 1.20 are not being considered for amendment.

Commissioner Russell recommended in Policy 1.2 to remove the first three words. He has objections in the rest of the document that he has raised in other meetings: "should", "could" and "may" need to be replaced.

Commissioner Mahoney referenced page 3, Policy NR 1.3 (1), and suggested re-wording it to read “devoted to commercial agriculture production”. We produce crops, we do not produce agriculture.

Commissioner Russell referenced Policy NR 1.19 and asked if the wording should say “shall consider”. He understood that those elements would be adopted.

Mr. Lane stated the right to farm has been adopted.

Ms. Kincaid stated the right to forestry and right to mine have not been adopted but there is a right to farm ordinance.

Mr. Lane stated in the context of the compliance efforts that this is not something that can be fixed at this time. It could be addressed when the County looks at the comp plan update.

Mr. Lane stated the proposed ARL-related amendments to Lewis County Code 17.30 are in response to the Growth Board compliance order. The first proposed amendment is to 71.30.600. There are two new subsections proposed. This section provides the pathway for property owners to point out errors in the designation of their property as ARL. In 2007 subsections (1) and (2) were adopted, but to address some of the new lands being considered subsections (3) and (4) have been added. Subsection (3) addresses errors based on lands that have soils classified as prime if drained or prime if irrigated and in fact they are not drained or irrigated.

Subsection (4) addresses the non-soil dependent uses that occur on non prime soils. An example would be a poultry operation that was believed to be in existence and the County designated it as ARL but in fact it did not exist or it ceased operation after the ARL designation had been applied to it.

All of the opportunities for relief in this section will have the fees waived for requesting a comprehensive plan amendment.

The next two amendments are to the Use provision of the Code, 17.30.610 for Primary uses and 17.30.620 for Accessory uses. The Growth Board compliance order told the County that family day care and home businesses were not appropriate primary uses and they have been deleted from .610 and are added to the end of .620 and are now permitted as accessory uses.

17.30.650 is for maximum density and minimum lot area provisions. A cross-reference provision has been made in the first paragraph and proposing deleting a section out of (1)(c). The Growth Board had a problem allowing any land designated ARL to be subdivided if it was not large enough to meet the minimum acreage requirement. (1)(e) relates to covenants and protections. The Growth Board wanted more specificity so the language on the next page would need to be included.

Commissioner Russell stated 17.30.600 (2), (3), and (4) say exactly what the Planning Commission has been trying to accomplish and he is pleased with the wording and the effort that went into it. The rest of document he has no problem with until the Notice of Covenant. He believes the word “near” needs to be better defined, perhaps by a distance.

Mr. Lane stated this language is from the Code but does not address Commissioner Russell’s issue. The idea is to provide notice to potential purchasers.

Commissioner Mahoney stated this was originally taken out because it was redundant. He recalled there was a one mile distance which he believed would be the least distance required for relief from odor, noise and dust.

Commissioner Russell stated his concern is if this is going to be a legal notification attached to a recorded document, it would allow a builder or anyone purchasing a piece of property a lot of latitude for an argument in court, which is ultimately going to cost the County a lot of money. It would be much simpler to write in a half mile or a mile.

Commissioner Mahoney asked who gets notification.

Mr. Rupp stated if it is adjacent to agriculture resource land, the County requires a covenant if they can’t meet a setback of 100 feet. Ms. Kincaid will find it in the Code.

Mr. Lane stated it is important to be consistent and he proposed checking other provision of the code.

Commissioner Mahoney stated it is a good policy.

County Commissioner Schulte stated when he built a house he had to sign a waiver and he remembered that there was a one half mile distance stipulated in the permit.

Mr. Lane stated it is in the right to farm ordinance as one quarter mile. He suggested using the same distance that is in the right to farm ordinance as it relates to subdivision of land. This notice would appear on the plat itself.

Commissioner Russell stated later in this same section it references agricultural land and he believes it should include all resource land, not just ag resource land.

Mr. Lane stated another item on the agenda is zoning map corrections related to ARLs. When the maps are adopted designating ARLs there will be corresponding zoning map amendments. For Lewis County the maps for the land use designations are identical to the zoning designations.

As staff and consultants reviewed the maps it was discovered that there is an area that was reviewed but does not appear on any of the maps, which is an area around Glenoma. We will create the new map, which will be 15A, and include it in the packet for public

hearing and will be brought back to the Planning Commission on March 24 which is the week before the public hearing.

Mr. Lane stated the public hearings have not been set yet. It was proposed that they be held on March 31 in Morton and April 1 in Chehalis. If the Planning Commission agrees, it might be appropriate to start the meetings at 6:00 rather than at 7:00.

Commissioner Mahoney made the motion to set the ARL designations public hearings for March 31 in Morton and April 1 in Chehalis, both beginning at 6:00 P.M.

Commissioner Russell made a friendly amendment to include the proposed comp plan amendments, proposed amendments to the development regulations and seconded the motion.

The motion carried unanimously.

Commissioner Russell asked if the public hearing could be set with four members.

Chairman Jennings stated four is more than half and therefore constitutes a quorum.

Chairman Jennings opened the public hearing on the 2007 Comp Plan Compliance.

Ms. Kincaid stated in 2007 the County adopted the Comprehensive Plan amendments and they were appealed to the Growth Management Hearings Board. The hearing tonight is to correct those portions of the Plan amendments that were found to be noncompliant. These specifically include the Napavine UGA boundary, the Curtis Rail Yard LAMIRD, Toledo's UGA and comprehensive plan text in the Land Use Element.

The staff report is dated December 30, 2008 which lays out the issues. The Planning Commission held a workshop and the hearing tonight is to take public testimony. The recommendations remain the same. For the Toledo UGA boundary there is no action to take as the City has annexed that so it is no longer in the County's jurisdiction to take action. Regarding the Curtis Rail Yard LAMIRD, it will go back to its original boundaries before the 2007 amendment and the underlying zoning will revert back to its original RDD-5.

The Comprehensive Plan amendments that the Growth Board asked us to revise are also in the packet. We propose to strike Table 4.1 in the Land Use Element because the numbers are always changing and it is not accurate and it is not practical to keep it up from year to year. The other text plan amendment is to add the population total of 6300 for the Birchfield FCC at full build out.

Ms. Kincaid stated Mr. Lane would discuss Napavine's UGA.

Mr. Lane stated he was speaking on behalf of the City of Napavine on this issue. The UGA proposal is a reduction from an adopted 2007 UGA. The Growth Board had

several problems with the land needs analysis. Specifically the market factor was addressed, both the size and how that market factor was applied in the analysis. The density was modified and assumed that the entire City and the UGA would develop at four dwelling units (DU) an acre which is a very conservative estimate. The needs analysis shows the numbers and explains what each step was in the process and gives a comparison to the assumptions made in 2007 and shows the differences in the lands from the 2007 expansion to the 2009 needs, which is a reduction. The map is attached.

Mr. Lane stated the comprehensive plan includes discussions of each city and the needs analysis will be plugged into the comprehensive plan, replacing the needs analysis from 1997.

Commissioner Mahoney asked that if the map included had been corrected at an earlier workshop.

Mr. Lane stated the map should show January 2009 and it is the corrected UGA.

Chairman Jennings asked if the spreadsheet from Seth Lackie of GIS is part of this proposal.

Mr. Lane explained that when the first needs analysis was to be brought to the Planning Commission we discovered inconsistencies in the numbers. The Assessor's office uses a certain set of data and the GIS uses another set of data. We had information from both sources and there were differences in calculations we could not explain. The data we used for this revised analysis is all based on the GIS data.

Ms. Kincaid stated that concluded the staff report.

Chairman Jennings opened the public testimony portion of the hearing.

Mr. Eugene Butler stated he would like to submit something in writing on the Napavine UGA as tonight was the first time he had seen the revised map. He asked for a week's extension.

Regarding the revision to Birchfield, he stated the authority of the comprehensive plan to address Birchfield ran out a couple of years ago and that section is no longer operative. He stated it is inappropriate at this time to be revising a section that is inoperative. The Planning Commission needs to consider a new section if you are going to talk about Birchfield and a new application.

Chairman Jennings asked Ms. Kincaid if the material for Napavine had been available since February 15.

Ms. Kincaid stated that was correct and asked for verification from Pat Anderson who sends out the mailings.

Ms. Anderson stated the Napavine packets were mailed out 15 days before the original public hearing which was scheduled for February 10. That hearing was canceled due to the lack of a quorum; the meeting was re-scheduled and noticed again.

Ms. Kincaid confirmed that the revised map and the final packet have been out at the public posting places well in advance of the 15-day requirement that the public participation requires.

Mr. Butler stated there is nothing that states it is a revised map and he does not know what was obtained originally. To put a notice out without comment is improper and to rely on something that may or may not have been changed at some indefinite date in the past is not proper.

Commissioner Mahoney stated the proposal was not changed at all. In January there were two maps, one showing the existing UGA and one showing the proposed change. This map has cleaned that up.

Mr. Lane stated the boundaries did change. On January 21 a new map was prepared based on the revised needs analysis when the correct numbers were given. The new map is what is before the Planning Commission that was put out for the public hearing. When there was not a quorum for the public hearing that map was still out there.

Commissioner Mahoney stated this information was available at the workshop.

Mr. Lane stated that is correct and the Planning Commission and the public has seen this map before.

Chairman Jennings asked if anyone else wished to speak.

Ms. Kincaid stated a second workshop and the letter of transmittal would follow the close of the public hearing.

Chairman Jennings closed the public hearing on the 2007 Comprehensive Plan compliance issue.

Commissioner Mahoney asked if there would be a week for written testimony.

Ms. Kincaid stated typically that is done, however staff is asking the Planning Commission to consider the workshop and letter of transmittal tonight due to the compliance schedule from the Growth Board and we must meet the Growth Board's hearing date.

Chairman Jennings asked if written comment has been received so far.

Ms. Kincaid stated no written comment has been received other than that between the City and County and Andy Lane.

Mr. Lane reminded everyone that there will be an opportunity for public comment before the BOCC.

Chairman Jennings opened the workshop on the 2007 Comp Plan Compliance.

Commissioner Mahoney referred to the concern brought up in the public hearing regarding the timeliness of the Birchfield FCC discussion in the comp plan. Since legal counsel was not present he asked if staff could comment.

Ms. Kincaid stated she would not give a legal opinion, but stated the response in the proposal is responding to what the Growth Board told the County to do. The Growth Board stated the County adopted population allocation for Birchfield but did not amend the text in the comprehensive plan. That is what we are responding to.

Mr. Lane stated since he is representing Napavine he will not comment.

Mr. Kincaid stated the Prosecuting Attorney's office has already submitted its letter on remand in responding to the Growth Board's order and discussing what the County is intending to do.

Mr. Rupp stated the point brought up by Mr. Butler was pertaining to the application of the FCC and the timing relative to the limitation placed on it in the comp plan. What we are responding to tonight is not that issue, it is the remand from the Growth Board. Mr. Butler's issue is not relevant to the discussion tonight.

Commissioner Mahoney moved to forward to the BOCC the Letter of Transmittal with all attached documents. Commissioner Tausch seconded. Motion carried unanimously.

III. Calendar

The next meeting will be March 24, which is a public hearing on Open Space, followed by a second workshop and the Letter of Transmittal.

Commissioner Mahoney asked for clarification on the documents received regarding the Open Space.

Mr. Rupp stated two tables were distributed at the workshop and the first table should not have been forwarded to the Planning Commission. It was a work sheet used by the Assessor's office. The 46 applications will be considered by the Planning Commission.

Commissioner Mahoney stated the document has 46 applications that have received approval of the committee and the applications that were denied at the committee level are not included in this document.

Mr. Lane stated that on the March 24 meeting there will also be Map #15A to come back to the Commission.

VI. Good of the Order

Mr. Ron Mauel referred to Map #4 and the addition of the Hamilton Rd. area next to Exits 72 and 74. 375 and 337 Hamilton Rd. are being impacted with a UGA from the City of Chehalis as well as the Napavine UGA within one half mile. Mr. Mauel is asking to not consider this property for ARL designation because of that impact. The opening of Exit 74 will increase truck traffic through Hamilton Rd. There is sewer and water moving into the area and with the UGAs nearby that will be a high commercial area. If we stay in ARL there will be an ARL and commercial impact within 60 feet of each other.

Mr. Mauel stated the property does not have prime soils and it is not drained and it is in the FEMA flood plains of the Newaukum River.

Mr. Mauel provided letters and documentation to support his request and that show increased commercial usage from 1990 to present.

Mr. Mauel asked if the Planning Commission would like him to give public testimony on April 1 in addition to receiving the documents tonight.

Chairman Jennings stated testimony will be recorded at the public hearing and the Planning Commission would be glad to have him speak.

Ms. Kincaid stated it is important for people to give public testimony at the public hearings.

V. Adjourn

Motion made and seconded to adjourn. Adjournment was at 8:06 P.M.