

**Consolidated Hearing Birchfield FCC
Hearing Examiner and Planning Commission
March 25, 2008
1:00 PM
351 NW North St.
Chehalis, WA 98532**

Hearing Examiner Mark Scheibmeir called the meeting to order at 1:00 PM.

Planning Commissioners Present: Larry Hewitt, Arny Davis, Mike Mahoney, Rachael Jennings, Bill Russell.

Planning Commissioners Excused: Bob Guenther, Richard Tausch

Applicants Present: Virgil Fox, Craig Steepy and Curt Smelser and Aaron Laing

Staff Present: Phil Rupp, Kernan Lien, Glenn Carter, Rod Lakey

Today will be a joint hearing with the Hearing Examiner and Planning Commission, which is a continuation of the public hearing on May 8, 2007. At the conclusion of that hearing, Mr. Scheibmeir issued a decision which recommended no action be taken on this application until certain matters were addressed. The Planning Commission has conducted six workshops relative to proposed development regulations for Birchfield.

We will return to some issues addressed by Mr. Scheibmeir earlier; the applicant has asked for clarification on certain conditions and we will hear the Planning Commission's consideration of the revised development regulations.

The Hearing Examiner has received a number of documents and will identify them as exhibits: Exhibit 919 is the County Staff Report, dated March 6, 2008; Exhibit 920 is the Birchfield Hearing Examiner Conditions, followed by applicants' response; Exhibit 921 is the proposed development regulations, and if enacted, will become Chapter 17.22 to LCC; Exhibit 922 is the Birchfield Mitigation Summary and Road Standards; Exhibit 923 is the Birchfield Open Space and Parks Plan, including Figure 1 and 2; Exhibit 924 is the Proposed Official Zoning Map; Exhibit 925 is the letter of application dated March 21 seeking clarification re: commercial development and affordable and senior housing.

Mr. Lien stated two comments letters have been received; one from CTED dated March 21 (which will become Exhibit 926) and a letter from Onalaska School District including a proposed impact fee ordinance, which will become exhibit 927; and the population allocation table, which will be Exhibit 928. Resolution 07-326 allocated Birchfield's population of 6300 and is mentioned in staff report.

Mr. Scheibmeir received a letter from undersigned citizens with about 12 signatures approving of Birchfield, and will become Exhibit 929.

Mr. Smelser stated additional materials include a memo from the applicant's attorney with attachments. There is information of how Redmond Ridge and Trilogy developed their property as it relates to the phasing issue and this is background information. Mr. Smelser was able to get the hearing examiner decision as it related to the phasing issue and is included in the packet but not mentioned in the letter.

Mr. Scheibmeir stated these will be Exhibit 930.

Mr. Scheibmeir stated the record should reflect about a dozen members of the public present for the hearing.

Mr. Scheibmeir explained the hearing process. Staff will present its staff report and may wish to speak about that and provide support information, followed by a presentation by applicant through its counsel in a question and answer process and followed by public comment.

Mr. Scheibmeir explained the process for public comment.

Vice Chair Jennings opened the Planning Commission public hearing on Birchfield in conjunction with the hearing examiner. Commissioners introduced themselves.

Mr. Scheibmeir recognized Mr. Lien.

Mr. Lien explained an FCC and that it is allowed under RCW 36.70A.350. County regulations that closely mimic this RCW is LCC 17.20.060. 060 requires the consolidated hearing that is being held today. The Hearing Examiner is reviewing the application as a master plan development and the Planning Commission is reviewing the application as amendments to the County's comp plan development regulations and zoning maps.

Through additional workshops that the PC held since last hearing, there was a significant amount of new material that was produced. Since there was so much new material, the County thought it would be beneficial to hold another public hearing to cover that new material. Some of these materials are designed to specifically address some of the Hearing Examiner recommendations; others were produced as the project evolved and provided more detail.

While the development regulations are not specifically under the Hearing Examiner review, there are some items within the development regulations that reflect some Hearing Examiner recommendations from before; specifically how phases will be reviewed. There have been some changes to the Birchfield zoning map.

The applicant has produced some road improvement costs which address one of the Hearing Examiner recommendations; also an open space and parks plan which also addresses a Hearing Examiner recommendation and the table just mentioned for Birchfield's population allocation of 6300.

Impact fees will be addressed today. Lewis County has still not adopted an impact fee ordinance. CTED states the county must adopt impact fees before an FCC can be approved.

Review of the new materials will be presented by Staff and the applicant together. Following that will be the request for clarification from the applicant.

Mr. Scheibmeir recognized Mr. Glenn Carter.

Mr. Carter stated the Prosecuting Attorney was tasked by the BOCC to prepare the groundwork for drafting a new ordinance that deals with impact fees for transportation, schools, fire and parks. An agreement was reached with Foster Pepper to do the legal substantive work for a proposed ordinance that deals with impact fees on all levels. ESD112 and their attorney, Monte Allen, will head up a consortium of five or six school districts that are working on the school impact fee issue. They have submitted a SEPA mitigation request to the Board, and they have submitted comments for this proceeding. They are in contact with Foster Pepper as to the substance of an impact fee ordinance. The board has not yet been confronted with the issue formally, and has not yet determined what the scope of that ordinance will be. It is up to the BOCC once it is presented to make the policy to determine what the scope of that impact fee ordinance will be. There are various alternatives that could be considered as part of that.

In addition to Foster Pepper and ESD112, there is work being done by staff and Public Works that depend on data, such as traffic impact studies. Once all of that is done, the ordinance alternatives will be presented to the BOCC.

Commissioner Russell stated there was no reference made to impacts to the Sheriff's department or law enforcement.

Mr. Carter stated as he understands the RCW regarding the preparation of the impact fees ordinance, it is primarily addressed to the four elements he mentioned. He is not aware of one that would be a separate element that deals with law enforcement.

Mr. Scheibmeir stated while he is not the Planning Commission's counsel, if the PC has concerns about such issues, it will need to address them in the context outside of the impact fees.

There is an exception under the statutes in fire for those areas having fire districts which allow the alternative for voluntary agreements and asked what he should be mindful of relative to fire.

Mr. Carter stated the concern now is if the BOCC goes with a countywide ordinance on impact fees, fire districts don't cover all the areas of the County. He does not know if the residual areas would be subject to that in the future.

Mr. Scheibmeir stated there is a question of jurisdictional overlap. Separate from that, is it the intent to utilize impact fees instead of voluntary agreements relative to fire district impacts in this application.

Mr. Carter stated he did not believe so in this case. In this particular matter, it is not our intention to go outside of the voluntary agreement.

Mr. Scheibmeir spoke on the parks issue: The applicant has submitted a parks plan and consideration is to be given to impact fees as allowed by statute. He understands it is the applicants' intent to establish a private park plan; and although there is an alternative for public parks supported by public impact fees, in this case, it is the intent to establish a private plan.

Mr. Smelser stated that is correct. The County is talking about a countywide ordinance that deals with impacts and while we are dealing specifically with Birchfield, some of those impacts, such as transportation, will directly affect our project where others would not. Most ordinances in cities and counties that deal with parks allow for mitigation and are handled that way.

Mr. Scheibmeir stated the record should reflect that while the County may be considering impact fees with respect to parks, the particular application before us calls for a private park plan and it will be up to the applicant in dealing with what may be future impact fees for parks to discuss service in lieu of fees, and that is not before this body today.

Mr. Scheibmeir asked Mr. Carter if there is some sort of time line regarding the Commissioners' consideration of impact fees.

Mr. Carter stated it depends on how quickly Foster Pepper and Public Works get their information together and hopefully there will be a draft to look at within the next thirty days.

Mr. Scheibmeir stated the County's supplemental staff report recognizes the need that impact fees be imposed, and there is language that indicates if that doesn't happen, there is another option available. He asked for clarification.

Mr. Lien stated the end of the report states Staff would recommend approval if impact fees were adopted, but if not, the County cannot recommend approval.

Mr. Lien briefly gave an overview of the staff report.

Mr. Scheibmeir recognized Mr. Rod Lakey, Lewis County Public Works Engineer.

Mr. Lakey reviewed the estimates and stressed they are preliminary until survey and design standards are established. While they are preliminary, they are reasonable and consistent with a project Public Works would normally do.

Mr. Scheibmeir asked if the 6-year transportation plan reflect these costs or will there be other costs associated with them.

Mr. Lakey stated they do not match. The 6-year plan is listed as “unfunded”. The Middle Fork rehab, 3.7 miles, was \$4.7 million. Birchfield’s estimates were \$9.3 million.

Mr. Scheibmeir asked if the work is an upgrade to arterial status.

Mr. Lakey stated it is an upgrade to projected traffic. Going to an arterial status depends on whether there are 2,000 vehicles a day. Without the traffic volume, this was the estimate for the 6-year plan.

Mr. Scheibmeir stated it is just to get the project on the roll; it is not a scope of the project.

Commissioner Mahoney stated as he recalls it, the County’s plan did not include widening the full width to arterial status. Land acquisition and widening would make up the difference in the two figures. The Planning Commission was told this was to get it on the schedule.

Mr. Lakey agreed with this interpretation.

Mr. Scheibmeir stated he has received a document titled “Funded Projects – 6-year Transportation Improvement Project 2008 – 2013” and has identified this document as Exhibit 931.

Mr. Lakey stated the road standards within the Birchfield FCC are consistent with Public Works’ current standards. They show improvements for an urban-type setting, and Public Works does not have an urban-type setting, but these meet the County’s requirements for traffic volumes and for sidewalks and curbs and gutters.

Commissioner Russell asked if there are a limited number of projects that can be on the TIP. There are 37 items listed on the TIP.

Mr. Lakey stated there are about 40 projects on the unfunded portion. The project needs to be on the 6-year plan before it can be worked on. There is no limit to the number of projects.

Mr. Scheibmeir asked about priority. Priority has relevance to funding; what is the priority relative to unfunded projects.

Mr. Lakey stated if there is matching funding, it probably works its way to the top, because fewer county funds would be put into the project. There should not be too much stock put into the numbering of the project. If improvements are needed because of accidents history or there is a public outcry, then those projects can be moved around within the 6-year plan. The projects are not ranked by number.

Mr. Lien stated if the County adopts an impact fee ordinance the project has to be on the 6-year plan before impact fees can be collected for it.

Mr. Lien continued with the staff report and the County's position on the FCC. Aside from the impact fees, staff believes Birchfield does comply with Lewis County codes and the RCW for a fully contained community.

Mr. Lien stated he would like to work together with the applicant as the rest of the materials are gone through.

Mr. Lien began with the development regulations and pointed out the high points and some issues specifically addressed by the Hearing Examiner.

Lewis County Code 17.22.020, page 3 of the Development Regulations talks about phasing and how different phases would be reviewed when the application is received. There is a change to the official zoning map from the previously presented map. In the EIS the phasing zones were "bubbles" and the applicant's intent when they applied for the individual phases the zoning boundaries would be set. However, if the FCC was approved with those zoning maps, they become the official County zoning maps and if the boundaries are changed, they become another comp plan amendment, so each phase would have to come through this process. With that in mind, the boundaries were expanded so they were touching each other. This does not change the density within any of the various zones, and it does not eliminate the open space that is identified on the previous map. This was done for a matter of efficiency when the other phases are applied for.

Mr. Scheibmeir asked for clarification to "density", if Mr. Lien was referring to population or intensity of use.

Mr. Lien stated this would refer to both. The zones have not changed; there is still a population allocation of 6300. The phases are still identified on the map and the population within each of the phases in the EIS would still apply.

Some of the phases have been broken up as well. Although the phases are numbered one through five, it does not necessarily indicate the order in which the phases will be developed.

Mr. Steepy explained that what came out of the Planning Commission meetings was an interest in not necessarily developing from south to north. The phasing would be determined by the need for infrastructure as well as access and more timely response for emergency vehicles. It was determined that phasing might start at opposite ends of the project and work towards the middle, with the intent of making a connection from an infrastructure standpoint, and it would happen sooner than what was proposed in the EIS.

The phasing development would be explained in the development regulations, keeping in mind with each specific development proposal, there would still be site specific environmental analysis, such as identifying the impacts associated with transportation and infrastructure, and the mitigation would be implemented to meet the intent of what the FCC rules are.

Mr. Lien stated this issue is described on page 4, item D. If the Birchfield FCC was originally reviewed as a non-project action, and when it applies for the phases it will be a project level review. Development permits will be reviewed concurrently with the phase development for any identified phase on the map.

Mr. Scheibmeir stated his earlier decision mandated following the phasing. This seeks to not do so and the development regulations as proposed are inconsistent with his recommendations to the County Commissioners. By reading the statute, Mr. Scheibmeir questions avoiding numerically following phasing when it says you must phase the development. He will read the applicant's materials to see how this has been addressed. The statute calls for linear phasing requirements.

Mr. Scheibmeir is also concerned that many of the aspects are hinged on linear phasing and dependent upon that for their success. The park plan is a linear phased park plan and there is a plan for firefighting that is a linear phased plan by District 1. To some extent there is phased school development. While he understands the need for flexibility, he is struggling with the statutory requirements imposed on FCCs.

Mr. Scheibmeir stated he is not opposed to reconsidering but he is concerned about devastating a fire district because the planning does not allow the fire district to know what is coming.

Mr. Lien stated even though the phasing might not be linear, the population allocation for each phase still stays the same. Mr. Lien does not read "linear" into the Lewis County Code. He read the code, 17.20.060(1)(d). Mr. Lien stated what the County will be looking for when it reviews the items is not linear, but when plans are applied for, the County will have the Hearing Examiner recommendation and the EIS, and the County will review the application to ensure it fits the big picture, whether it happens from the south to the north or from both ends.

Mr. Scheibmeir asked for a better understanding of what might occur. Phase I is developed, and instead of completing Phase I or moving into Phase II, there's a decision to go to North Fork and start on Phase V. Does that mean all of Phase V is presented as a supplemental environmental review, or is it simply Phase V (a) that would be addressed.

Mr. Lien stated as the phase is nearing completion, the applicant will want to start on the next phase. Each phase does not need to be complete before another phase has begun. The County does not want Phase I not quite complete, Phase II not quite complete, etc. When Phase I is nearly complete and the neighborhood commercial along Middle Fork is ready for development to move in, it becomes time to hook in to the water supply from

Chehalis along Centralia Alpha Rd. At that point they may want to start developing Phase V and punch Birchfield Parkway through the entire development to get infrastructure to the development below.

Mr. Scheibmeir stated in each instance there is a condition imposed for the status of the market as to how things develop. In 17.20.070 there is a reference to not avoiding undue economic hardships in the development process. In .080 there is reference to meeting market conditions. Mr. Scheibmeir does not find market conditions in the statute or ordinance and asked why development regulations would be economically driven.

Mr. Lien reads this as to when development happens. The market conditions might not be right to apply for another development phase, and the applicant does not want to stick to a time table that they have to apply for the next phase if there is no development coming. Another place where this applies is with commercial development. The applicant sets it up so the opportunity is provided for commercial adventures to come in: building sites, infrastructure. As market conditions apply it is going to fill out.

Mr. Steepy stated in hindsight, Birchfield would have articulated that it was not intended to be a strict linear phasing of development.

Mr. Scheibmeir stated his worry is market conditions would be a condition for development regulations; if it's a good market, we do more things. If it's a poor market, we get away with more things. He hopes this is not the intent of this language, but rather it is related to the phasing only.

Mr. Steepy stated it is related to phasing and is not written to maximize profits. It is written to understand that from the time the project is visualized that things are going to happen. Most projects of this magnitude with long horizon years rarely get developed exactly as they are envisioned originally. We are trying to develop flexibility internally that would allow us to respond to things we don't know about yet.

Mr. Scheibmeir stated the developer always has factors around economic conditions. To impose them into the regulations seems to say they are recognized but need an out.

Mr. Steepy stated the applicant is willing to consider different language that meets the intent but lessens the concern.

Mr. Scheibmeir stated the County's version of the FCC requires a balancing of all types of development; specifically they must all be balanced as they progress. In the County staff report it is noted that an attempt to balance these will be problematic. He asked how we deal with statutory language that says we must balance.

Mr. Steepy stated the applicant's interpretation of balance is that a plan must be presented that has a balance of residential property, employment use, recreational use. If the plan is balanced at completion, the question becomes what happens in between. Do we always have to be perfectly balanced as we progress through the years? We did not interpret the

word 'balance' that we had to be balanced as we progressed, but rather the plan had to be balanced when we reach full build-out. There will come a point in the discussion as to where the development begins: residential or commercial.

Mr. Scheibmeir stated legally this cannot be just a suburb. If 15 applications for phasing come through, phases V(b) and IV(c) and III(a) and they are all working around putting in 3,000 homes with assurances there will be commercial development and then it goes no further, Mr. Scheibmeir would feel he had not done his job if that occurred. That would be a violation of the law and Mr. Scheibmeir needs to know how not to violate the law.

Mr. Lien stated the commercial area along Middle Fork Road needs to be set up right away. It might not have full build out with one of the phases, but it must be one of the first areas that has infrastructure, roads in place, and availability for development to come in. Staff would not accept applications for just Phase I, Phase II, Phase V(a). The County will look at the balancing for the overall development.

Commissioner Hewitt asked if it is the applicant's intent to design and build the commercial structures, or to seek outside investors to build on the premises.

Mr. Steepy stated it is the applicant's intent to come up with a site plan for the neighborhood commercial area. Triggers will identify when certain infrastructure is necessary to provide commercial space. At that point, the roads, the water and sewer would be put in and an interested business would get a permit. When there are a certain number of rooftops and a population base, somebody is going to want to build there.

Mr. Scheibmeir asked if there is a foundation in the materials for the rooftops Mr. Steepy mentioned.

Mr. Steepy stated there is a handout that he presented to Mr. Scheibmeir.

Mr. Scheibmeir stated the handout is dated January 10, 2008 from the Washington Small Business Development Centers, which will become Exhibit 932.

Mr. Steepy gave a summary of the handout, which gives the minimum population needed to support commercial businesses such as hair salons, coffee shop, auto repair, etc.

Mr. Scheibmeir stated common sense might suggest that a fully contained community does certain things, that it fully contain certain utilities or obligations or police force, etc, but it doesn't require any of those, therefore we can't mandate them. The reverse argument could be made that although common sense would again suggest that economic forces prevail in the timing of things, we have an ordinance that doesn't seem to be economic force driven but simply mandates certain things whether they make economic sense or not. Economic force, while interesting, may not be relevant in certain respects. As the Hearing Examiner he may find them less so because the statute doesn't tell him to find them relevant.

Commissioner Jennings asked how the proposed commercial development would be marketed.

Mr. Steepy stated the price per square foot for commercial is more valuable than residential property. The applicant is very anxious to have commercial endeavors come to the development. The applicant wants a community that will provide a large variety of services and wants the commercial activity to be successful.

Commissioner Jennings asked Mr. Steepy if he has looked at the SPDC form that indicates what amount of population supports the small businesses Mr. Steepy referred to earlier.

Mr. Steepy stated he has seen statistics that show that the community is over saturated with a certain business. They appear to be successful and since he is not an economist he is not prepared to explain it.

Commissioner Mahoney asked if there is a way to complete the parkway from south to the north with water and sewer lines without authorizing development in the phases that the parkway travels through or does Phase V(a) have to be authorized before the infrastructure is completed.

Mr. Lien stated he believes the applicant would want to develop Phase V(a) if the road is going in.

Commissioner Mahoney stated the parkway for a large part is on a boundary line between different phases. Can the parkway and the entire infrastructure (gas, water, telephone, sewer) be established without authorizing development in the adjacent phases. Commissioner Mahoney believes it is important for the road to be completed before the phases are opened for development. Would the parkway be its own phase.

Mr. Lien stated he believes the parkway could be developed without developing the individual phases. It may be important to have the parkway developed to serve the southern portion of the property before the phase at the top is begun and it would need to undergo environmental review first.

Mr. Scheibmeir stated that is an interesting question, if the parkway would be its own phase. Common sense would suggest it could be allowed before any phasing around it takes place.

Commissioner Mahoney suggested looking at establishing the right of way as he believes it is important to develop that before the adjacent phases are developed. Commissioner Mahoney stated the balance he is looking for is in housing; there should be a mix of "empty nester" housing as well as apartment buildings with children. A work force needs to be considered for the employment centers.

Mr. Steepy stated if there is a need to develop the Birchfield Parkway corridor without the subsequent adjacent land development, we could go through the corridor analysis or corridor SEPA review without having to study the adjacent 400 acre phase. It is not specifically spelled out in the code, but that is what he envisioned.

Mr. Lien stated this is covered in the development regulations already. While the applicant is applying for a phase it became apparent that Birchfield Parkway needed to be constructed, as long as integration to the larger Birchfield FCC is apparent, which is what County staff is looking for. It would need to undergo a SEPA review and have a traffic impact analysis. The development regulations as they are written allow for that to happen and a corridor study is not out of the question.

Mr. Scheibmeir referenced 17.20.040 and asked if this means approval of the hearing examiner or opposed by the hearing examiner.

Mr. Lien stated this was written before the impact fees discussion and agreed it needs to be re-worded.

Mr. Scheibmeir read a portion further on in .040 and stated it makes sense but he doesn't understand the relevance. "An applicant's pro rata contributions for any County road improvements identified by the environmental documents. . . ."

Mr. Lien stated .040 needs to be re-written in light of our current status.

Mr. Scheibmeir had concerns about the phrasing in the first sentence of .080. It suggests that 17.20.060 specifies market conditions and it does not. Income levels are specified in Lewis County code, but not market conditions and should be removed.

Mr. Scheibmeir stated the county ordinance bifurcates the housing issue because of a comma. It specifically lists senior housing as a requirement, not as a housing type. When you read .080 there is not a separate recognition of senior housing. We direct that the FCC contain a mix of residential uses but it doesn't specifically mention it must include senior housing.

Mr. Steepy stated seniors can live in any type of housing. A house with a master bedroom on the lower level or a house that is wheelchair accessible could house a senior citizen.

Mr. Scheibmeir did not disagree that that is possible. What he is not certain about is whether that meets the code requirement of recognizing it and providing for it. We have a mandated requirement.

Mr. Lien stated section 17.22.211 is a zoning summary table that lists allowed uses in the various zones. The table is for non-residential use which includes boarding homes, convalescent homes, etc, which is allowed under special use permits. In the residential zone in Table II, retirement homes, convalescent homes and similar uses are permitted in

various uses up to six persons in special use permits in 17.20. The code does not require it but it is a use that is allowed in various zones. When an application is made, that is what County staff will need to consider.

Mr. Scheibmeir stated it is a permitted use in all residential zones. The purpose of 17.22.080 is to recognize the obligations imposed by the ordinance. If we are going to recognize the obligations, then we need to recognize all of them, or not recognize any of them. To recognize half of them is peculiar.

Mr. Smelser did not read this the same as Mr. Scheibmeir reads it. The master community provides a broad range of income levels and shall provide a mix of residential uses which may include all of these things. The final sentence says they must contain four of those of your choice.

Commissioner Mahoney asked if the variety of markets refers to a variety of prices.

Mr. Steepy stated this provides for a range of housing types for different income levels.

Mr. Lien wanted to point out that any changes to the zoning boundaries would require a comprehensive plan change, as would any change to the density within and those are spelled out in 17.22.190. The summary of uses allowed in the various zones is a good summary of the type of development that would happen in Birchfield. The rest of the development regulations are pretty straight forward and have been reviewed by County staff and the Building Official and are consistent with other development regulations.

Mr. Scheibmeir asked if there is a scenario that if approved the plan itself requires an amendment as opposed to the zoning and comprehensive planning aspects of this development, and if so, where is the dividing line between those two. He asked Mr. Lien to give this some thought.

Commissioner Hewitt asked if a change to the open space areas also require that level of plan change.

Mr. Lien stated the only change requiring a comp plan change would be to make the open space areas smaller.

Commissioner Mahoney stated the maps are different than the maps given to the Planning Commission in that they have more green space along the creeks. Are those green spaces part of the ordinance or just the Middle Fork.

Mr. Lien stated the zoning map that is in front of the Planning Commission would be the zones. That doesn't mean that those open spaces went away. Because this was a non-project review, the open spaces are generally related to critical areas. There has not been a wetland delineation done nor have all streams been identified. If this map is adopted as the zoning map, those will be identified in the process later.

Mr. Scheibmeir asked what the method is for defining the zone boundaries.

Mr. Lien stated they are not legally described. The map is a GIS layer and there are parcels in Birchfield that do not follow any of these lines. There is a geo reference layer that identifies the boundaries.

Mr. Scheibmeir recessed the meeting at 3:00 and reconvened at 3:16.

In response to an earlier question by Mr. Scheibmeir, Mr. Lien stated the County feels the only time the FCC master plan portion would need to be amended is if the outer boundaries of the FCC were to expand, and not the lines within.

Mr. Scheibmeir invited Mr. Steepy to begin discussion on the Parks Plan.

Mr. Steepy distributed a color copy of Exhibit 923. This proposed Open Space and Parks Plan is intended to respond to the Hearing Examiner's six recommended conditions that should be reviewed and considered prior to the BOCC issuing a decision on the FCC.

Mr. Steepy explained his process for developing this plan and stated he used the Centralia plan as a model.

Mr. Scheibmeir apologized for stating this was linear phased. It is population based, not phased based.

Mr. Steepy reviewed the plan itself and the elements of the plan. Approximately 25% of the Birchfield FCC will be in open space and include a mixture of natural open space or formal, active or passive recreational opportunities, or 40 acres of open space for every 1,000 residents projected within Birchfield.

Mr. Scheibmeir asked if critical areas are part of the open space areas.

Mr. Steepy stated they are part of the open space.

Commissioner Jennings asked if Mr. Steepy had percentages of what is actually preserved critical areas and what percentage is being put into recreational areas.

Mr. Steepy stated beginning on page 8 of the Parks Plan and through the remainder of the document, there are a series of tables that go through calculations based on suggested standards for the type of park. Under Table 4(a), Neighborhood Parks, the year 2030, the population is 6,300 and based on the level of service of two acres of park per 1,000 people and this project would require 12.6 acres of developed neighborhood park space. Similar calculations were used for the various types of parks and trails.

There are two colored maps attached to the Parks Plan. Birchfield has established four neighborhood parks throughout the community. The service area encompasses about 90% of the Birchfield land area.

Mr. Scheibmeir stated Figure 1 identifies open space as 342 acres; however looking at Tables 4 (a)(b)(c) the figures don't match.

Mr. Steepy stated there are open space areas within the master planned community that are not park areas. Figure 1 is an open space plan, but not all open spaces are parks. Mr. Steepy pointed out the community park on the map, which is 260+ acres.

Mr. Steepy stated the buffers were not intended to be included in the park space.

Mr. Steepy continued with his overview of the Parks Plan and Trails Plan.

Mr. Scheibmeir stated some of the parks development does not follow the development of residential development.

Mr. Steepy stated the parks will develop with the demand from the population.

Mr. Lien stated that is the extent of the new materials provided between the last hearing and this hearing and suggested proceeding with the reconsideration on some items.

Mr. Scheibmeir stated a recommendation was made for a fence around the perimeter of the development, and there was a question whether this was wise. It concerned hunters being warned about a populated area. Mr. Scheibmeir stated the fence is not in the County's report.

Mr. Lien stated there is nothing in the regulations that specifically require a fence. There had been a discussion when the Planning Commission did a site visit. Signage was discussed for that area as well.

Commissioner Mahoney stated he and Chairman Guenther had concerns about treed buffers around the housing that bordered on clear-cut and re-growth areas that are heavily hunted. It was brought up strictly as a safety issue for a developer to be concerned about.

Mr. Steepy distributed a color copy of Birchfield Hearing Examiner Conditions, Exhibit 920. The blue are conditions that need to be addressed prior to FCC approval. The red are conditions that must be implemented post-FCC approval. The yellow are conditions that need to be addressed at this hearing.

Mr. Steepy stated the applicant is in agreement with most of the conditions set forth by the Hearing Examiner.

One issue is on Page 1, Condition 1, for conditions after FCC approval: The need to improve Middle Fork Road to arterial status within six years, and Forest Napavine Road within ten years. We recognize we need to make certain roadway improvements. Our concern was establishing a trigger with years. There will be economic slowdowns and times when economic development will happen more quickly. It may be more

appropriate to use specific residential development triggers, much like we did with the parks plan.

Mr. Scheibmeir has two concerns. First, this project will not fly if it does not have good roads to it. It seems the applicant would want to push good roads as hard as possible and that would be his recommendation to the Commissioners.

Mr. Steepy's rebuttal was if this condition states that this road must be improved within six years and the economic condition takes awhile to improve and we have started building homes, we are now saddled with widening a road and spending a lot of money, but we haven't created the impact which is driving the need to improve that road, regardless of the economic conditions. Now we are facing bankruptcy.

Mr. Scheibmeir stated this is not the applicant's money. We are asking the County to step up and take the risk and it will be reimbursed through impact fees.

Mr. Steepy stated the County's ability to fund that project will be primarily driven by our development paying the impact fees. It is our understanding that the County will need to have a large proportion of that funding in place before they start the work.

Commissioner Russell stated he is concerned that one day sooner or later we have 300 additional cars on that road and then the decision is made to fix the road. We are still looking at three years to repair or upgrade that road. People using the road today are impacted and people moving into the development will be impacted for a long time. Also, a lot of the money from Public Works will be grant-funded driven.

Commissioner Mahoney recalled from the workshop that once impact fees are imposed and are being collected, is there a time clock on using them?

Mr. Glenn Carter stated the fees must be used within six years.

Commissioner Mahoney stated the impact fees will not come in all at once, but rather when lots are sold. Not a large percentage of the money will come from the Birchfield development.

Mr. Lien agreed with Commissioner Mahoney.

Commissioner Mahoney stated the purpose of putting time frames into the ordinances is to assure that the project gets done. The County is obligated to completing the project regardless of the money collected.

Mr. Steepy stated he understands; however he does not want to fund an improvement too far ahead of when the impact justifies the improvement. Without the impact, there is no need to do the improvement.

Mr. Lien does not believe this is a condition for the applicant but rather a condition for the County. The County needs to be prepared to fund improvements.

Mr. Scheibmeir stated this was not intended to harm the applicant but to protect the applicant. If the County is going to embrace this project, then it has to economically embrace the project. Also, with the balancing that the statute mandates, there must be economic engines within this development. Common sense indicates that at least minimal commercial development will occur without adequate road systems.

Mr. Smelser stated the law of traffic analysis and traffic impact fees is pretty well set. What the applicant is responding to is a number 6 years and a number 10 years. His interpretation of this is from the time the BOCC makes a decision to go forth with the FCC that time clock would start. In actuality, the law is very specific that a developer is permitted and must pay a pro rata share of the cost of improving a road, unless the project creates a situation that they triggered the law of concurrency. In this case, this is a concurrency issue and the law is that it either has to be built at the time of development, or funded to be built within six years from the time it is needed. The possibility is we will get approval for an FCC but not be back before the County for another 18 months or two years with an application specific for development. When that comes in and the new environmental impact document comes in as a consequence of that environmental review, will be the requirement to pay an impact fee and/or deal with the issue of concurrency.

Mr. Scheibmeir stated the six and ten was not derived from the concurrency but rather from the applicant's own phasing, when its own numbers triggered levels of service that were inadequate.

Mr. Smelser stated part of the TIA (traffic impact analysis) will identify the number of car units before the first improvement is going to be needed. When you pass through that threshold it triggers the impact fee.

Mr. Scheibmeir stated the commercial aspect of the FCC is not number based. There is a need base that does not have an equivalent within the concurrency standards for determining, yet are critical to this project.

Mr. Smelser stated all land use is ultimately translated to number of cars. The traffic engineer will evaluate the industrial and the retail/commercial and the residential and compute that in terms of auto trips. That will trigger the next round of improvements.

Mr. Scheibmeir stated so much of that is after the fact. Is there a direct impact that needs to be addressed on the front end of this project in recognition of its profound impact to the traffic structure within the whole region. Or do we allow it to degrade levels of service and then we react. Since this is not a mandatory process, do we want to follow a format and after the fact repair the damage that has been done, or is it one before the fact where we avoid the damage and provide an economic incentive for commercial development.

This issue was debated at length. Mr. Scheibmeir welcomed suggestions that might be somewhere in between these options, but as it stands now, he is still leaning towards his original recommendations. He does not feel these roads should be burdened and then hope the Commissioners do the right thing years down the road.

Mr. Steepy asked Mr. Scheibmeir if the record could be left open for providing more information.

Mr. Scheibmeir stated that is entirely acceptable. He thanked everyone for their efforts in producing the information available for the hearing.

Mr. Steepy continued with the matrix, numbers 19 and 23. The applicant believes there needs to be residential development first to drive the commercial development and is troubled with maintaining a balance between the two throughout the life of the development proposal.

Mr. Scheibmeir stated with respect to number 19, the last sentence says the FCC is not required to provide employment for the entire working population; only a portion of the population. Mr. Scheibmeir asked from where that language is drawn.

Mr. Steepy stated this was not drawn from any particular rule. He saw nothing in the law that requires employment for the entire working population.

Mr. Smelser described the documents given to the Hearing Examiner. They contain information regarding Redmond Ridge, an FCC, and Snoqualmie Ridge, which is a mixed used, very large master planned community. In both instances there were major discussions about balancing. A system was set up that did not require a specific number but an analysis and review of every phase as it came on line. There was not an approval for the next phase if it did not include something to bring it to some kind of balance. It was determined that rooftops are a necessity if there is to be retail/commercial and market forces drive when the major office parks come.

Mr. Scheibmeir stated this approach has not been offered, only the approach asking for flexibility, and no proposals for methodologies that would restrain non-preferred growth. Will the applicant consider an approach similar to Redmond Ridge and Snoqualmie Ridge?

Mr. Smelser stated the applicant would consider this type of approach as long as it is recognized that the market drives everything and there must be certain types of land use before there can be others.

Commissioner Mahoney asked if this type of review would also apply to the variety of housing types, and the balance of housing types.

Mr. Smelser stated that is correct.

Mr. Scheibmeir asked if there were any other comments from the applicant.

Mr. Steepy stated conditions 20 and 21 are concerns of the applicant.

Mr. Scheibmeir stated he was aware of that and because of the comments just made will wait for more comments that will be coming from the applicant.

Mr. Steepy stated that concludes the applicant's presentation.

Mr. Scheibmeir opened the public testimony portion of the hearing.

Mr. John Mudge, 190 Sanderson Rd., Chehalis, stated the population projection numbers are not correct. He spoke on impact fees, stating there are ongoing costs that are not covered by impact fees, and taxes never pay for those costs. He urged rejection of the FCC application because of its location.

Mr. Mudge stated if the roads into Birchfield are improved other roads that need improvements will not receive them because there won't be enough money. He believes the improved roads will take larger development to the Birchfield area and beyond and destroy farm land.

Mr. Mudge believes the area set aside for public services is too small. He is concerned about what will happen if the project is not successful. The County is stuck with an improved development in the middle of nowhere. How will the unused land be returned to rural use, or can it be returned.

Mr. Richard Curtis, 772 US Highway 12, Chehalis, asked when the public would have a chance to see the new materials provided today and how long will the public have to respond.

Mr. Scheibmeir stated everything he has received is a public record and asked Mr. Lien how best to make these materials available.

Mr. Lien stated he would contact Mr. Scheibmeir's office on Wednesday, scan the documents and make them available on the County's website.

Mr. Michael Vinatieri, 107 Hemlock Dr., Chehalis, stated for many years he reviewed environmental impacts and has looked at this proposal with regard to water availability. The agreement with the City of Chehalis says there is a commitment for twenty years. That is not availability. Water availability means water from now on will be provided to the project. He has expressed his concern with staff of the state health department and they do not believe this meets the criteria of water availability.

Mr. Scheibmeir asked if the state health department has expressed its concern in a written format or some other form. If Mr. Scheibmeir is to present findings, he needs information that has been sworn before him.

Mr. Vinatieri understood the health department would follow up on this and if it has not been received, he will ask for a written response. The department's concern was if this met water availability and also could the City shut off the water after any period of time.

Mr. Scheibmeir stated there was no other request for public comment. He asked if Mr. Lien and the applicants if they had response to either the public comment or any of the materials.

Mr. Lien stated he had no further comments. Mr. Steepy stated he had no further comments.

Mr. Scheibmeir asked the applicant in answer to Mr. Curtis' inquiry about responding to the new materials what the preferred time frame would be to present any new materials.

Response inaudible.

Mr. Scheibmeir stated he would like to study the materials and schedule a follow-up hearing, and asked if the materials could be provided by April 9.

Mr. Phillip Rupp stated this would require a special meeting with the Planning Commission, or the hearing could be held during a regular Planning Commission meeting on the second or fourth Tuesday.

After discussion, Mr. Scheibmeir tentatively scheduled the hearing for April 22 depending on the Planning Commission's schedule.

Mr. Lien asked if this would be a continuation of this hearing.

Mr. Scheibmeir stated it would be a continuation of this hearing, and the Planning Commission would recess this hearing until the next hearing date.

Written materials from the public should be received by the Hearing Examiner and Planning Commission prior to the next hearing to allow time for their review.

Commissioner Russell moved to recess the public hearing; Commissioner Hewitt seconded. Motion carried.

Mr. Scheibmier recessed his hearing until the next hearing, to be announced.

Meeting recessed at 5:04 p.m.