

Forest Resource Land – Appeal of Ordinance 1219
Updated February 28, 2023

As was provided in the record previously, the parcels that are the subject of the YMCA Mineral Lake rezone proposal were owned by Forecastle and previously rezoned by Ordinance 1219. Ordinance 1219 was appealed and the rezone was reversed by Ordinance 1241. Questions were raised during deliberation on February 27, 2023 about why the rezone was approved and why the decision was remanded. This memo provides a summary and excerpts from the relevant decision

Ordinance 1219

In 2010, Forecastle proposed a rezone of 830 acres of land from FRL of long term commercial significance to FRL of local importance (Ordinance 1219). The remaining 1,250 acres of contiguous land was not included in the proposal. The most significant difference between the two designations is that the minimum lot size in FRL of long term significance is 80 acres, and the minimum lot size in FRL of local importance is 20 acres.

The rationale by which the by Lewis County BOCC approved the proposal was that the Lewis County Code required that FRL of local significance must not be part of a “minimum block size of 5,000 contiguous acres managed as forest lands.” The BOCC findings went on to say that because the land owned by Forecastle was bound by “State Highway 7 and Mineral Hill county road to the west, the former Tacoma and Easter Railroad line and Mineral Creek to the east, Mineral Lake to the south and Nisqually River to the north” the land did not form a contiguous 5,000 acre block size. The BOCC also found that the land being in close “proximity to Mineral and rural settlements supporting the rezone to FRL of local importance”.

The findings stated that the rezone was consistent with GMA goals, policies and regulations but did not provide detailed findings against applicable rules. The findings stated generally that “the rezoned Forecastle lands will retain their status as GMA forest resource lands and, except for the change in maximum density and minimum lot size from 80 acres to 20 acres, will continue to be subject to the same land use and zoning regulations applicable to [FRL] of long-term commercial significance that assure conservation of forest resource lands”.

Appeal

The Growth Management Hearings Board (GMHB) found that “Lewis County has failed to achieve compliance with RCW 36.70A.070 (preamble)¹ and RCW 36.70A.130(1)(d)² and is in continuing

¹ RCW 36.70A.070 (preamble) states “The comprehensive plan of a county or city that is required or chooses to plan under RCW 36.70A.040 shall consist of a map or maps, and descriptive text covering objectives, principles, and standards used to develop the comprehensive plan. The plan shall be an internally consistent document and all elements shall be consistent with the future land use map.”

² RCW 36.70A.130(1)(d) states “Any amendment of or revision to a comprehensive land use plan shall conform to this chapter. Any amendment of or revision to development regulations shall be consistent with and implement the comprehensive plan.”

Ordinance 1343 – Supporting Materials

noncompliance: There are similarly situated properties included on the Comprehensive Land Use Map as FRL when some of those properties do not meet the Lewis County FRL criterion in violation of RCW 36.70A.070 (preamble) as all elements are not consistent with the future land use map. There are similarly situated properties on the zoning map as either FLLTCS or FLLI when such properties could only be one or the other in violation of RCW 36.70A.130(1)(d) resulting in a failure to be consistent with and to implement the comprehensive plan.”

The GMHB found that Lewis County failed to demonstrate consistency with GMA because the County did not enter specific findings about the action relative to the comprehensive plan.

The GMHB did not rule as to whether the land should or should not be rezoned from FRL of long term commercial significance to FRL of local importance. The error was procedural.

The County filed a Petition for Review of the decision with the Thurston County Superior Court where it was affirmed.

Ordinance 1241

The findings of Ordinance 1241 stated that “In discussions with Forecastle, it was determined that in light of the GMHB and Thurston County Superior Court decisions that the best course of action was for the subject property to revert to its original designation of [FRL] of long term commercial significance.”

There was no discussion in Ordinance 1241 as to why the BOCC chose to revert to the prior zoning rather than make additional findings to support the original decision. However, because there was no stay of Ordinance 1219, during the appeal Forecastle was able to divide the property into 20 acre parcels. Those parcels continue to be legal lots, despite being nonconforming, even with the zoning reverted to FRL of long term commercial significance.