

# MASON COUNTY PLANNING ADVISORY COMMISSION

**Minutes**  
**December 16, 2002**

(Note audio tape (#3) dated December 16, 2002  
counter (#) for exact details of discussion)

*(This document is not intended to be a verbatim transcript)*

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## **1. CALL TO ORDER**

The meeting was called to order by Chair Diane Edgin at 6:00 p.m.

## **2. ROLL CALL**

**Members Present:** Bill Dewey, Diane Edgin, Steve Clayton, Theresa Kirkpatrick, Marilyn Johnston and Bob Sund were excused.

**Staff Present:** Bob Fink, Darren Nienaber, Allan Borden, Susie Ellingson.

## **3. APPROVAL OF MINUTES**

The minutes from the October 21, 2002 and November 18, 2002 meetings were approved as presented.

## **4. NEW BUSINESS**

(#0060) Diane Edgin: This is a continuation of the public hearing from December 2, 2002 on proposed amendments to the Mason County DR's and Comp Plan. Staff?

(#0070) Allan Borden: I will start off by passing out comments that were received from John Diehl on Thursday, December 12 and that was included in your packet. It was a letter addressed to the PAC. I'm now going to hand out two sets of comments that were received today in DCD from Advocates for Responsible Development. They were received this afternoon about 3:00. The first set of comments are proposed amendments to the draft revision to the DR's having to do with rural commercial zoning. The other set of comments that were received from Advocates for Responsible Development have to do with open space corridors, fish and wildlife habitat and FFA's. Based upon comments from the December 2, 2002 public meeting that was continued until today there were additional minor revisions made to the RO sections which were sent to you in your packet. The changes are bolded and underlined. The Final Supplemental Environmental Impact Statement (FSEIS) on the DR's and Comp Plan are completed and now available. They were sent to the PAC by e-mail on Friday. The environmental review now includes evaluation of the designation of outer boundaries for hamlets, previously designated ICIA's and the newly designated 175 lamirds. At the end of that section is something that you did not receive by e-mail is the Table A that has the 175 lamirds so that is included. The third version of the FSEIS includes the three letters of comments from the DSEIS and the responses from Mason County to each of the issues brought up in each of those letters. I know that Mason County Community Development Council had requested those. That should bring you up to date since December 2<sup>nd</sup>. With these letters of comment it would probably be appropriate for you to read

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them. If you want you may choose to have people make comments first or you may choose to break and read the new material.

(#0395) Steve Clayton: I think we should read first.

*Break in meeting for PAC to read new comments.*

(#0460) Diane Edgin polls members to see if they read letters. All have read new material.

(#0478) Steve Clayton: Bob, you polled us for the new meeting dates in January and February. Are those confirmed?

(#0480) Bob Fink: I didn't hear from two people for February and one person couldn't come so there's not a quorum for sure for February but January meeting is set for Wednesday, January, 22<sup>nd</sup>.

(#0515) Diane Edgin: Does staff have any additional comments or presentation for us? Okay, we will now open it up to public testimony.

(#0535) Warren Dawes: I'm only going to comment on the responses on the EIS. Two weeks ago I talked to you about F&W's concern about the Deer Creek properties along the creek and the properties along Spencer Lake and Spencer Lake Hamlet and the properties along Oakland Bay in Bayshore Hamlet. The response coming back is that those properties that we're concerned about are zoned residential but let's go back and look at it from the standpoint of creating the hamlets and then zoning to existing uses so that you would zone commercially the service station, grocery store, etc. that are in these hamlets and then everything else would be zoned residential. It leaves us wondering where the first commercial property will be added to that hamlet because that's why we're creating hamlets so that they can be a service center for the surrounding property areas for the current and projected rural population. Worse case scenario would lead us to believe that it would be the residential area in the area of concern that we have. That leaves us with a problem and the answer, and I understand that it's doable to go in at the time of rezoning and then challenge that but the problem I have with that is that usually when a person is going in for rezoning they have a proposal already put together. It puts the applicant in the position of preparing that proposal and going forth and if there are objections to it for environmental reasons the usual action then is not to deny it but is often to mitigate the impact. Mitigation, we feel, is not acceptable as just avoiding the environmental impact of such a commercial development. To bring it down to where we stand on it is that there is another option. You don't necessarily have to change the logical outer boundary of the hamlet but it does seem to me that the community needs to have some sense of planning direction in where commercial development should be placed and for that reason I think it would behoove you to consider putting in a future commercial development zone designation into those properties that you would find likely most advantageously put into commercial. At Spencer Lake those properties that are down around the lake are away from the road. The logical place to put the commercial development there might be across the road outside of the current hamlet but certainly those properties that are along the road would be better suited for commercial development for access for the rural residents and also keep them away from the shoreline. This problem has come up and John Diehl talked about it in terms of the RAC's where you've got these existing zoning and it becomes spotty on the map for Hoodspout and Union and the people that live in that area don't know what to expect. Are they going to get a commercial property next to them just because they happen to be in the RAC? It would be much more appropriate to put on your agenda to designate where the growth areas are going to occur within the RAC's, within the hamlet. With the hamlets being smaller you don't always run into these problems. In terms of getting away from the environmental impact of putting these commercial developments along the waterfront, you could talk about a future commercial development area. It could be the areas that we did not talk about deleting from these hamlets. That would give you an adequate area for future development and probably more reasonable location for them because they would be adjacent to the existing commercial development. I would ask you to consider taking some action to so designate the community an understanding of where commercial development is going to occur in these larger defined areas. I recognize that's not something you could do for Hoodspout tonight because it should involve the community but it seems to me that if you're going to be talking in terms of planning to put down a direction for where the community is going to grow commercially that you would want to designate those areas that are going to grow.

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(#0750) Bill Dewey: I appreciate that comment and also when John made it. These communities do need the opportunity for input of where that commercial development might be. We're not going to accomplish that in the near future. In the interim, as a measure to try to protect the sensitive area that you've called out is it possible to designate certain parcels as not eligible for rezone - that they must be residential?

(#0780) Darren Nienaber: It's legally possible to do that. Future legislature could also change that.

(#0790) Bill Dewey: I was trying to figure out a way to address the concerns about these areas. Residential, with the appropriate restrictions, is probably appropriate in those sensitive areas.

(#0798) Bob Fink: From my point of view looking at it in a more classical planning sense, the zoning that you're designating now - what it's zoned as is what the intended use is. There are certain conditions that would apply to what we have that is not necessarily typical for what's been done elsewhere in the past. The zoning designation intends that use and in order to change that use you have to take a legislative action which is to rezone it to a commercial use. When you rezone it to be a commercial use then you should evaluate if it's a particularly sensitive site in making that decision. The kind of thing you're trying to address is probably most appropriate to address in the rezone criteria. It is addressed in the sense that critical areas are one of the things that has to be considered in the rezone.

(#0835) Bill Dewey: I understand what you're saying but I'm not so sure that I disagree with Warren's point that when people come in and apply for a rezone they already have a proposal developed and you're more apt to, as opposed to turn away a commercial business, you try to mitigate and make excuses for it.

(#0846) Bob Fink: I understand that, too, and I think that Warren has an interesting approach to it but in the same way that the boundary is set now for that critical area it might be revised in the future raising the same issues. Those are all hypothetical scenarios for future legislative action and beyond the scope of the current SEPA. I think the best safeguard is if you think that the guidelines for rezoning are a little bit loose you can tighten them. You could establish a commercial area and that would be good for a while but there's no boundary that keeps them from requesting the expansion of that area and indeed that's one of the concerns with classical zoning is that you have a commercial area and you have a residential area and as demand grows and you need more commercial area then the adjoining properties come in and they ask for a rezone so you see those areas changing over time as demand changes and as the community grows.

(#0938) Warren Dawes: I think there's sufficient area in each of these hamlets that you could designate future commercial growth area that would serve the area for many years before there would be a need to ask for rezone outside of that area because the commercial zone area has been used up. I would ask you as a planning commission to consider areas that would give certainty to the neighborhood of where the commercial development would go and protection for those more sensitive areas within those RAC's and hamlets. I just think it's better planning. I see planning as a living document that changes over time and certainly the boundaries will change over time as the community grows but by acting now you can probably preclude a difficult situation in the near term and set direction for many years.

(#1016) Diane Edgin: I like the sounds of that but how does this affect best and highest use when it comes to taxation when you designate a piece of property as potential commercial?

(#1030) Darren Nienaber: I'm not here to give tax law advise but my guess is that it would be taxed according to it's zone and the zone would be currently residential.

(#1090) Steve Clayton: We're required to zone the UGA's as per say and each have participated and Belfair is on-going but what about the future of hamlets to do plans in those areas? Is it on the agenda to do sub-area plans for these?

(#1105) Darren Nienaber: It's been discussed.

(#1108) Bob Fink: We were going to go to RAC's next and hamlets are a possibility if there's a need perceived to address them. There's no definitive plans for hamlets but it would be a possibility in the longer term. We probably wouldn't address them next year but maybe the year after that. There's a lot of things that can be worked on and that's one of the things.

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(#1135) Steve Clayton: So a recommendation from our group to put some sort of date - 5 years or 7 years to do the RAC's and the hamlets for sub-area plans.

(#1160) Warren Dawes: I appreciate that but 5 years seems like an eternity in what we're dealing with here. The people in Hoodspport and Union would want to do that sooner and then maybe the hamlets could follow.

(#1172) Bill Dewey: Without knowing staff's limitations maybe we should ask staff to come back to us with a proposal for some rough dates. Maybe do Hoodspport first.

(#1186) Steve Clayton: Aren't they undergoing a current plan?

(#1188) Bob Fink: Hoodspport doesn't have land use planning process underway. There was a group formed locally who started a process to do that and they shortly stopped. There's another planning group that's primarily interested in open space, tourism, economic development that was established by the Port of Hoodspport. They're more project specific. They might go into land use issues where it became necessary, such as a commercial area but their charge isn't to look at the area as a whole. Their charge is more towards the commercial tourist, open space, community project type of thing. If the county were to do a sub-area plan they would probably appoint a group or simply hold a series of workshops which might be as good and have a few people that would get involved with feedback.

(#1262) Diane Edgin: When you advertise your workshops do you just use the local media?

(#1266) Bob Fink: We've gone to the local community and posted in places like grocery stores, libraries and post offices. When we're trying to target a specific area that seems to work.

(#1280) Diane Edgin: What about sending out notices with PUD #1?

(#1282) Bob Fink: I've heard people suggest that both PUD's can do that.

(#1300) Steve Clayton: So you would be receptive to putting together a date line that we could look at to do PAC's and hamlets?

(#1306) Bob Fink: We could go back and look at our old implementation plan. The problem we've had with timelines has been that the GMHB remands have always given us our agenda so to speak. Although we've pursued certain things outside of that agenda but to a certain extent we don't quite control our time. Hopefully that will all change.

(#1360) Theresa Kirkpatrick: I would feel comfortable going ahead and recommending the removal of the parcels that Mr. Dawes is requesting that he presented at the last meeting.

(#1458) Diane Edgin: In this Deer Creek hamlet we're talking about removing everything north of this heavy black line but right behind where the convenience store is there's a large parcel which does not border any creeks or anything like that that a substitution might be made.

(#1496) Warren Dawes: My point earlier was that there is adequate area in these hamlets for commercial. But if it's going north of the hamlet between the two rivers but the property is not bordering on either creek that would be certainly better in terms of protection of the resource in that creek.

(#1515) Steve Clayton: What do you think of Mr. Fink's response as far as the protection that's currently in place? Is that adequate?

(#1525) Warren Dawes: In reading the comments in the EIS it's clear that the issue would not be resolved until a person makes an application for a rezone. My point is that I think that sometimes is late in getting the problem resolved satisfactorily. I do think that it would be good to talk to the community.

(#1555) Steve Clayton: So moving the lines for these would perhaps be better done by the community group

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in a sub-area plan or should we attempt to work with them here?

(#1560) Warren Dawes: To be conservative, I think there's adequate area for commercial growth in the interim between now and when the community could decide how their hamlet is going to develop and the best approach would be to cut those properties off. You could reassess later what properties might be added in or needed in the hamlet but that would take away the obvious environmental problem that we see along the creek and that F & W have identified. I know from talking to the Squaxin Natural Resources that they have a concern about it, too.

(#1592) Diane Edgin: Just like at Spencer Cove, any commercial on that cove would be detrimental because it has just a narrow mouth out into the lake.

(#1605) Bill Dewey: I have a couple of questions for clarification. The types of businesses that are located in these hamlets are intended to service the residential properties within the hamlet or also within the rural area that also surrounds the hamlet?

(#1615) Bob Fink: Not just in the hamlet, also rural areas.

(#1622) Bill Dewey: Secondly, I can understand to some degree the reason for including residential properties when you're trying to draw the boundaries around that hamlet so you don't end up with spots of commercial properties. Like at Bayshore or other problematic areas there are properties there that are included that are clearly residential and will always be residential and that these may be carved off without affecting given you a total block of property there. Is there a reason that we need to consider?

(#1652) Darren Nienaber: *(Darren's comments were unable to be distinguished at certain times because of distance from microphone)*. Under the D1 category that applies to hamlets and RAC's. The GMA says that you have UGA's, rural villages, which are RAC's and hamlets, and then D3 would be ICIA's. Their principal design is to serve existing and future rural residents. Isolated parcel they're not required to serve existing or projected rural population. Conceivable you could have a 15,000 sf building. But under D1 which are RAC's and hamlets it expressly says existing residential, commercial, industrial and mixed use areas. So what you do is you find areas that are already limited areas of more intensive rural development (LAMIRD's) meaning small acre parcels of residential, commercial, industrial and mixed use areas. So you draw a boundary around those areas that are already pre-existingly dense in terms of parcel size. The GMA requires that.

(#1742) Bill Dewey: But these parcels that Warren's talking about carving off, they're zoned residential but there's no residences on them?

(#1748) Bob Fink: They mostly do have residences on them.

(#1750) Warren Dawes: It depends on which ones you're talking about. In Deer Creek, they do not have any permanent structures on those 4 lots. On Bayshore, they do have houses on that part that's to the north.

(#1778) Steve Clayton: Is it within our realm to redraw these lines?

(#1780) Darren Nienaber: You can make that recommendation.

(#1790) Bob Fink: These aren't specifically remanded. The boundaries are not specifically under review. The environmental review doesn't necessarily indicate that there's a probably significant adverse impact from having the existing boundaries and indeed we argue that under the existing zoning there aren't those impacts. You can designate the whole thing urban and evaluate the impacts of that if you wanted to develop that alternative but that's not under consideration. It's not an unrelated issue but neither is it one that is part of the remand.

(#1834) Diane Edgin: Who and when drew these dotted lines?

(#1836) Bob Fink: They were drawn in 2000 initially by the consultants that the county had hired to assist them using property records and aerial photos and criteria from the ACT. They went through public review and hearings and were adopted by the county and are not an issue before the GMHB

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(#1878) Diane Edgin: I don't really have any problems with what's going on at Spencer Lake or Bayshore but when we take anything that could possibly be construed as commercial out of a small hamlet to begin with and definitely these 4 lots all border the water should go but I'm thinking that it might be a good recommendation at this time to include lot #2404010 and #2404020 because those are both big level lots and they border on an existing road and there's no water to be worried about.

(#1908) Theresa Kirkpatrick: How about in the future if someone wants to put forth a proposal to do it then they can bring that forth at that time. If we move these lines are we subject to public hearing?

(#1920) Bob Fink: Whatever your recommendation is hopefully it will be made in time for public review prior to the BOCC public hearing. There will be new drafts of what you recommend for the public to review but to what degree they hear about them, I don't know. They're not expecting these changes; they haven't been in the draft prior to this so people will have an opportunity to review them but in the short time available to what extent they hear about it is obviously limited.

(#1955) Warren Dawes: After these boundaries were made in 2000 it was very late in the process that it was done so it was a rush, rush job getting the EIS written. We did subsequently brief it in both hearings subsequent to that and in both cases it was the EIS path that was chosen by the GMHB to remand to the county to act on. So we saw that as our window to go in and comment on them. That's still an issue for us and what I was really looking for was trying to work out some sort of common ground here. I don't think anybody said that they think commercial development should go on those lots that are there. It's just searching out for a way to do it.

(#2004) Bill Dewey: If we pull them out of the hamlets how much additional protection does that offer that property from commercial development if in the future it's now outside the hamlet and residential and someone wants to apply for a rezone?

(#2022) Darren Nienaber: Can't do it. It's always conceivable that they could come back in the future and propose to move the boundary in and rezone at the same time. That would also have to go through you and the BOCC.

(#2066) Steve Clayton: We have some important information on why we should remove some. Maybe if we went along the lines of going ahead and making a recommendation to remove those and then going along the lines of making a recommendation for a timeline in these different areas to have the local residents evaluate it and then they could say what they want.

(#2090) Bob Fink: You have to understand, too, that although it might make sense to include commercial areas that are more suitable for commercial use that are next to the LAMIRD there is the limitation placed on the logical outer boundary by the ACT and there's a burden on the county because the county did not officially designate these areas as LAMIRD's and when some counties, such as Jefferson County, went back and tried to designate additional areas as LAMIRD's they did not get a warm reception from the GMHB with regard to any expansion to that initial determination of what a LAMIRD is. It's based on 1990 data.

(#2205) John Diehl: One thing to keep in mind is so far as the issue of a remand is concerned the GMHB found defective the environmental analysis. It said that we required the county to consider the cumulative affects of LAMIRD's and the failure to assess LAMIRD defects analysis substantially interferes with fulfillment of the goals of the ACT. What that means then is that not only did it become the responsibility of the county to go back and reassess these but it means that it leaves open the door for a remand on any of the areas not adequately discussed originally in the environmental disclosure documents. So anything with respect to the SEIS may ultimately lead to a remand even though it may not presently be an item specifically remanded. And obviously everyone would like this to go through so that we don't just deal with a specific item that was remanded this time only to discover that something was done wrong so we get another remand. The issue of the boundaries of these is one that's only been partly resolved. It's true that the GMHB seems to have accepted the view that the boundaries of the hamlets and the RAC's were tightly drawn and it is an open question whether they were tightly drawn around the smaller units. The point is with respect to rural development generally we do want to draw the boundaries tightly. These are not areas where we expect annexation in the future. If at some point in the future we decide that we want to create a UGA that's another matter. UGA's can grow and can annex land but don't think of these as miniature UGA's that are subject to

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readjusting boundaries to pull in some vacant land that you'd like to see developed. That's not the concept that we're dealing with in terms of rural land development.

I've given you a lot of material to study and I want to begin with the comment that Mr. Fink made saying that if there was a problem with some of this zoning or boundaries perhaps the way to address that would be to tighten up the rezone criteria. I think that is perhaps the single most important thing that you can do because that's where the rubber hits the road. That's where we will really see a visible effect in terms of planning. We all know that existing development isn't told to shut its doors under any of these schemes. I think it makes some difference whether it's deemed conforming or non-conforming and I've spoken to that. The main point is the development that may ensue. If we don't have adequate rezone criteria we're not going to have adequate control over that vital and essential matter. I've proposed some specific changes in the language to try to turn the so-called criteria into true criteria. There's no way you can turn them into mathematically precise criteria but what we can do is to provide some standards as opposed to simply areas of investigation. The failure to look at how zoning fits into the larger scheme of things and by that I mean the tendency to simply treat all existing development as though it was somehow property there and should be zoned so that it fits into a zoning scheme. There's no rationale for that. The reference in the ACT is merely to a definition of existing development. The ACT doesn't say that the existing development shall be deemed conforming or that it shall be deemed a LAMIRD. It allows for existing development to be treated in a LAMIRD assuming it meets other criteria. If we happen to have a McDonalds out in the stretch between Hoodsport and Shelton it would not follow from anything in the GMA that that should be treated as a LAMIRD or that it should be treated as a conforming zoning. It clearly does not fit with rural character and it would not serve the needs of the rural community primarily and it might not be isolated either. These criteria that are found within the ACT need to be applied to whatever you want to zone into a LAMIRD that conforms with the requirements for more intensive rural development. I don't think it serves to speak of isolated parcels as LAMIRD's in the way that the staff recommendation proposes. It doesn't serve because it doesn't apply the criteria. If you look at the various numbered LAMIRD's on the map you will see that many of them are clustered; they're not isolated. They might be appropriately grouped in LAMIRD's where they are clustered but they're not isolated as is allowed under the appropriate section of the ACT. On the other hand where we've looked before at places like Hoodsport where there is a scattering of development without any clear scheme for zoning there is a real questions as to why these would be even zoned in the way that they are. The staff analysis at one point cites a case that came down from the GMHB this summer from Lewis County. That decision seems to say that existing LAMIRD's with tightly drawn boundaries may be treated as LAMIRD's. However, it doesn't address the question that I'm raising which applies not to the clustered LAMIRD's with tightly boundaries but to the attempt to treat every parcel individually as a LAMIRD. This is just evasive in my judgement of the intent of the ACT as well as the remand from the GMHB.

(#2730) Bill Dewey: If you've got a LAMIRD that's an individual property with a commercial use on it and if it's a non-conforming use, pre 1990, are you recommending that it not be considered a LAMIRD?

(#2766) John Diehl: Zoning being applied here with its rural commercial designation is not something that's specifically required under the ACT. That's an overlay that the county came up with. So far as the ACT is concerned if you have rural development then you need to look at it as to whether it fits the criteria. It depends on whether it's an area or whether it's isolated and that question is not being asked here. We're just asking if it existed as of 1990. That's part of the problem but the other part is that if you're going to have a zoning scheme at all then it makes sense to try to make it coherent. I gave you a hypothetical of a McDonalds and if you look at those 175 supposedly isolated LAMIRD's not only are they not isolated but a number of them do not meet the standards to be found in the ACT. I've suggested in the written material that one solution to this would be if we can't decide at this point which of these commercial developments that are not in area LAMIRD's ought to be conforming zoning under our scheme then leave them as non-conforming zoning and revisit them as you get evidence and as there's an opportunity for neighborhood comment. That will get us past the hurdle of getting GMHB approval. With respect to the LAMIRD's that are the area LAMIRD's I would say the simple short term solution would be to not have any interior zoning; to refrain at this point from creating any conforming zoning within those LAMIRD's. You can have the LAMIRD's without having zoning within them. We still have a problem in that some of this development within the LAMIRD's is not consistent with the concept of a LAMIRD and so it may have to remain non-conforming. There's nothing wrong with temporarily putting a number of commercial and industrial developments in a kind of limbo from the standpoint of zoning. After all, we've gotten along for all this time without zoning and it wouldn't hurt for us to hold off on some zoning for a little longer. We can have the

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LAMIRD's with non-conforming uses in them and then upon the review we could determine which of these uses are in fact conforming uses. That would be the rationale way to go about it. There's nothing in the record right now to support any particular sorting out of the commercial and industrial activities that exist now within the designated LAMIRD's.

I wanted to say a word about a specific proposal that I have that is kind of a concept that I've applied with some specific language in what you have before you. We can all recognize that there's some kinds of uses that are really beyond the pale when it comes to commercial activity in rural areas. They don't serve the needs of the rural population or they are not consistent with rural character. There are others that are consistent. Then there's a very substantial middle area where whether the use is or isn't may be not so much a function of the type of use it is as to the scale of the use, as to the nature of the particular neighborhood and that sort of thing. So while you could try to refine the types of uses somewhat by developing a more detailed strategy for sorting out retail uses as what was done in the matrix but the device I suggested to you in the most recent material I've submitted is to employ the strategy of requiring for this middle ground a special use permit which gives you the kind of review and site specific consideration of a project that allows you to make an intelligent decision as to whether it really belongs in that area or not.

I wanted to add a word about the RC4 zoning. I suggested to you in the written material that it might be deleted. I still think that's probably the best way to go. The staff analysis would try to vindicate it in terms of offering the option of a kind of commercial zoning where the commercial development is isolated and where one would like to have a lower floor area ratio which is the thing that principally distinguishes it from RC3 zoning. That's all well and good but I fail to understand the staff's concern about the floor area ratio and its relative lack of concern about matters like setbacks. The setbacks are still the same for RC3 and RC4 and they're very narrow. I think much more important than the floor area ratio is going to be the total size of the operation and the setbacks from adjoining development and especially in the case of isolated development. My preference would be for you to drop that category but if you choose to leave in RC4 zoning then by all means give the most careful attention to the total size of the development and the setbacks.

On the staff response to my letter that dealt with the Comp Plan and which now appears as an appendix to the supplemental EIS the question is the status of non-conforming uses. The staff response says that the lending institution is less confident in supporting development that is non-conforming since the prospect of expansion are more of a risk to their potential investment. This is the kind of speculation that I think really demands some reference to experience. I don't offer you any kind of systematic analysis on this myself except to point out that if you are a lender you're concerned with getting your money back; you're not concerned with how rapidly the business you're lending to can expand. In fact, you may well wish that it didn't expand too fast because expansion of a small business is often the prelude to disaster. This rationale just doesn't make sense. It's also added that there's no certainty that such non-conforming development will continue at the site. Of course that's true and it's also true that there's no certainty that conforming development will continue at a site. These are not the issues. The point of making a distinction between conforming and non-conforming is to try to get off on the right foot with respect to zoning in general. If we start off with arbitrary standards by which we zone things as conforming uses then where are we going to be when people come in seeking rezones and asking for additional commercial development. It's certainly at best going to add an element of confusion and it may make the whole zoning scheme very much a fiasco and with little rationality.

*Miscellaneous discussion about continuing taking public testimony and then closing public hearing for PAC discussion and recommendations.*

(#3565) Bob Fink: I think to continue taking public testimony and then closing public hearing is a good idea. You're never going reach a conclusion if you keep introducing new information and new arguments.

(#3582) John Diehl: I'd be perfectly happy to say a few things about the Resource Ordinance but I am concerned, especially that this isn't a vast audience, that we who have been participating so extensively be at least present and that you be allowed to address questions to us. I've seen before what can happen where the hearing is closed and only staff speaks and there's no opportunity for those have put forward suggestions to respond to what staff has said. If in fact staff promises to say nothing then I will promise to say nothing. Otherwise I would ask that we be allowed to respond to any questions you may have.



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There are a couple of major areas of concern in the Resource Ordinance and one regarding open space corridors. As I pointed out in the written material the open space map is not actually an adoption of a corridor anyway so the first step is to challenge the staff to come up with a proposed adopted corridor. Then beyond that the corridor that is not a connection or passageway between UGA's so we still need that. This is not the sort of thing that's going to be handled through a few amended words. This needs to go back to staff with some direction from you to do it right. I really think it's going to get remanded.

(#3750) Steve Clayton: They deemed us compliant with the area between Allyn and Belfair and that doesn't touch either UGA so that gives to the layman an interpretation that between is intended so that the UGA's don't grow together and not linking the two but keeping the two apart.

(#3782) John Diehl: If they don't touch they certainly come very close; the corridor between Allyn and Belfair is very close to abutting the two UGA's.

(#3805) Steve Clayton: I believe it doesn't abut them on either end.

(#3812) John Diehl: That is something that I wasn't aware of and I don't think the GMHB was either.

(#3840) Steve Clayton: So the interpretation that I had of that particular section of the GMA is that it is to keep the UGA's from growing together. You're giving the interpretation that it is to provide a corridor for wildlife, etc., to transit between the two.

(#0138) John Diehl: It speaks of within and between UGA's and if you look at the full context I don't think that it means to have a space in between that doesn't connect them because that's not a passageway between UGA's. If the ACT only said to establish open space between UGA's then I think the interpretation that staff has come up with that would substitute the Hood Canal/Case Inlet corridor for Allyn/Shelton corridor would be a reasonable idea. But the ACT specifically says corridors and corridors between UGA's. I don't think there's any reasonable reading of that that says you can substitute a corridor between these two bodies of water in place of a corridor between two UGA's.

(#0188) Steve Clayton: It goes to the intent of the ACT. Is it to link the two UGA's, Darren? It's two dramatically different concepts. My only lead in was that they said compliant was the Belfair / Allyn open space and that doesn't link them. The intent when I sat in with the group that established that open space corridor and the intent we interpreted it as was that it was to keep the UGA's from growing together to keep some open space in between and then in between was also interpreted within the UGA there were other open space corridors.

(#0206) Darren Nienaber: The county has taken the position that it would seem odd to have a large animal corridor leaving or channeling a transit corridor from UGA's. It just doesn't make any sense. It seems that corridors between UGA's should be trail oriented. You're suggesting that a buffer would be a valid interpretation of the ACT also. It's clearly that the corridor is intended to provide a connection between them.

(#0240) John Diehl: Where we speak of open space corridors they're not defined in the ACT as large animal corridors. They are said in section 160 of the ACT to include lands useful for recreation, wildlife habitat, trails and connection of critical areas as defined in RCW 030. One can say that the corridor from Hood Canal to Case Inlet would be a connection of a critical areas but the point here is that it's not a corridor between UGA's and there are clearly reasons to have such open space between UGA's that have nothing to do with bears trying to get from Shelton to Allyn. They have to do with people and their recreational needs.

(#0284) Darren Nienaber: A trail; I don't have a problem with that.

(#0288) Steve Clayton: So the trail you just acknowledged is a trail linking Shelton and Allyn?

(#0292) Darren Nienaber: Yes.

(#0294) Steve Clayton: So we need an open space corridor between Shelton and Allyn as far as some sort of trail or facility between the two?

(#0302) Darren Nienaber: I think that's what Planning is proposing.

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(#0306) Bob Fink: Yes, along the railroad line and the utility corridor line; two different alternatives.

(#0308) John Diehl: Keep in mind that you're supposed to come up with an open space corridor that exists not that some day might exist if things changed. A transportation corridor, whether a highway or a railroad right-of-way, is not an open space corridor. It could become one just as the highway could become one if the highway were abandoned in the future but it's not now. I don't want to tell you that it's implied that there has to be developed a continuous trail from Shelton to Allyn in an open space corridor. The concept is to leave open possibilities of that sort and to secure in the meantime the open space and prevent that from closing through development so that we will never have that opportunity. We have no guarantee of ever having that opportunity if we only have a railroad right-of-way. We don't know that will ever cease to be used as a railroad right-of-way. You don't have to end up figuring out where you're going to put a trail but it would be wise to know where your open space actually is and to block some out to have some regulations so that open space doesn't get closed before you find a use for it.

(#0372) Diane Edgin: To my knowledge all we have is a railroad right-of-way out there; we don't have a track at this time.

(#0380) John Diehl: Yes have a track and the trains are running on it. I was going to add some things about the FWHCA. That boils down to the protection of the buffers and adequate buffers. The most glaring deficiency that I feel very strongly is unlikely to be received with good cheer by the GMHB is the attempt to delete something that was not remanded and that is the 15 foot setback which make a lot of sense and are a part of the rest of the picture with respect to all of the other buffers. It just seems to be quite defiant and quite unnecessarily provocative to be proposing to delete those few feet of additional setback beyond the vegetative buffer. If you want to avoid another remand that's a good place to start. I made some other suggestions with respect to the attempt to average. I think that these situations where you get development on one side or development on both sides and then they want to draw a line across it that effectively restricts the amount of the buffer; I don't think that's going to be accepted either by the GMHB. Not at least without some particular showing in a given case that something important is at stake. The GMHB was talking about a minimum 100 feet. If we're trying to protect wildlife we should be talking about more than 100 feet but if we're going to have a minimum of 100 feet then let's mean that and mean it not just in the case where you have no development at all on either side but in the much more prevalent case where you do have development on at least one side. With respect to the Frequently Flooded Areas I just want to say that I think that there is some good news and progress in what the staff has drafted. There are still some problems especially in terms of the potential of the use for variances for reasonable use exceptions to create development within areas where it is supposed to be precluded which is floodways. I've suggested some language which would close those loopholes.

(#0520) Steve Clayton: You use the same nomenclature interchangeably that I have trouble with the county using and that's floodway where the order uses FFA and as I understand the interpretation they're not the same thing. You just used the word floodway and that's in conflict with what the order says we need to do and that's no new construction in the FFA.

(#0532) John Diehl: The order says in the Findings of Fact that new construction is not precluded in FFA's. I agree with Darren that if you look at the context they're speaking of that they are thinking of as the FFA of the Skokomish River and they are also aware that the floodplain and the floodway of the Skokomish River are nearly the same. There's very little room for development that wouldn't be considered a part of the floodway in the floor of the Skokomish Valley. So I think the stricter approach is to say that we must preclude new construction, both residential and other construction subject to occupancy, within the floodway of the Skokomish River Valley. That is because of the nature of that valley and because of the avulsion risk and it's essentially the entirety of the valley and the county has now designated essentially the floor of the valley as the floodway in that case.

(#0592) Steve Clayton: I seem to remember from the FIRM map that the floodway was an imprecise area but the larger areas are the FFA's.

(#0600) John Diehl: Under FEMA that's probably true that the floodway could be defined in a somewhat narrower way. What the GMHB has said is regardless of what technical definition you use of floodway that

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the evidence is so overwhelming of serious and regular flooding of the Skok Valley that we need to take a conservative approach underlying the fact that it's not just that it floods but that it floods to high levels that it floods in a way that is likely to result in channel migration or avulsion at an unpredictable time and also at an unpredictable location. They were pushing the county to say we don't have a good way to segregate the part of the valley that you could safely build upon from the part that you can't so let's call the whole of it the floodway or at any rate preclude new construction in the whole valley. The county has now done that but I'm worried about some of the exceptions that seem to be built in.

(#0656) Steve Clayton: My concern was in four different places in the compliance order it said 'do not build in the FFA'. What the county has done is made a special flood zone; they haven't said you can't build in the FFA; they've said they've defined another term. My concern is that if the order says do not build in an FFA and in another place it says you're not in compliance with this set of regulations that allow you to build in an FFA and Allan hasn't eliminated those regulations and hasn't addressed those sections.

(#0695) Darren Nienaber: It's somewhat mooted; if you can't build defining the whole FFA as a floodway and as the avulsion zone so John has suggested eliminating that. If you can't build you can't build so everything else is moot.

(#0712) Steve Clayton: My rough interpretation was that it says no construction in FFA's. It doesn't say Skok Valley in any of those references; it says FFA's.

(#0730) Darren Nienaber: You can make your recommendation and we'll take it from there but if you read the history that there's no reference and no discussion from the Tribe about anything besides the Skok with reference to avulsion risk. If the GMHB subsequently said that they meant every FFA ... there's simply no evidence of that.

(#0755) Steve Clayton: In the compliance order on page 5 it listed some sections that were out of compliance....

(#0758) Allan Borden: A lot of those issues are in the past and are no longer pertinent to the current order.

(#0764) Darren Nienaber: If you prohibit development then they're moot. We were remanded on several specific issues. The county has their response. The GMHB said as a result of that response we're ordering you to prohibit all development so regardless of what they previously said they're not ordering us to prohibit development and that's what we've done.

(#0796) John Diehl: If you look at #2 and #3 of the order on page 13 I think that I'm essentially in agreement with Darren on this that the FFA in question is the Skok Valley and that the requirement that the FFA be designated as a floodway in #3 is that they clearly are tying the concept of a floodway to the concept of no new construction and in this case the previous discussion of what is the FFA leads us then to the conclusion that so far as the Skok is concerned the FFA is essentially the same as the floodplain. I believe the GMHB is saying that they've seen enough evidence about problems in the Skok Valley that we think that the floodway is essentially the floodplain and that you shouldn't have new construction there.

(#0862) Steve Clayton: So you're content with the wording on our latest draft as far as addressing what the remand says?

(#0868) John Diehl: Yes, with the exceptions that I've put in my recommendations.

(#0876) Theresa Kirkpatrick: Regarding the FFA's; was that the state that came back to the county and said that you must prohibit all development or was it the state that said you're out of compliance and the county said we prohibit all development? Who's idea was that?

(#0888) Darren Nienaber: The GMHB told us to do that. The wording said to preclude new construction in the FFA.

(#0925) Bill Dewey: John, in your recommendation here you've got various alternative numbers as to what are currently the frontyard setbacks, sideyard setbacks, square footage of buildings and so on. Are these just your recommendations or are these guidelines that come from examples from other counties?

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(#0938) John Diehl: They come from discussion with members of our group. Would you want a commercial business with only a 5-foot or 10-foot setback from you if it was next door to you in a rural area? I think common sense says that there is a zone of the kind that I'm speaking of and it might be a few feet one way or another but it seems to me that the staff proposal is just not within the range of reason.

*Break in meeting.*

(#1025) Theresa Kirkpatrick: I'd like to address what we're going to do about these three hamlets. I move we modify the hamlet boundaries as presented in the three page document presented to this commission by Mr. Dawes on the 2<sup>nd</sup> of December, item #2385.

(#1055) Steve Clayton: I second the motion.

(#1057) Diane Edgin: We have a motion and a second. Any further discussion? All in favor? Motion passed.

(#1235) Bill Dewey: The FWHCA and the 100 foot saltwater shorelines plus the 15 foot setback. I don't think you can ignore the setback. You either have to make it 85 feet plus the 15 foot setback or 100 feet plus the 15 foot setback. That's my opinion after listening to public testimony and reviewing it myself.

(#1270) Theresa Kirkpatrick: I agree.

(#1272) Steve Clayton: Do we have any other counties that have a similar issue with a just a single difference from the setback?

(#1278) Darren Nienaber: Some counties have no setbacks.

(#1302) Theresa Kirkpatrick: I move that we recommend to the BOCC to add the 15 foot setback in addition to the 100 foot buffer.

(#1305) Bill Dewey: I second the motion.

(#1307) Diane Edgin: We have a motion and a second. Any further discussion? All in favor? Motion passed.

(#1312) Bill Dewey: The next item on page 3 is "Has Mason County eliminated the MCC blanket permit exemption for agriculture activities"? John has provided us quite a bit of public comment on this specific issue. The county has said that they have addressed it.

(#1412) Theresa Kirkpatrick: One issue I have with this is on page 8 of the draft FWHCA in the paragraph in bold is an issue that I see come up repeatedly in this language of these documents is it says "shall be reviewed by the Administrator". I've read the definition as being 'a person or that persons designee'. My own feeling is that it leaves too much leeway and I'm open to discussion on this. When we leave things open to interpretation by an individual or a group of individuals it just seems like we are leaving vague language in.

(#1464) Diane Edgin: BMP's literally has been a moving target because they do change as new data becomes available. I think as long as something is stated in any HMP of the date it was implemented so they have something to go by as far as the regulations that were in place at that time. Is there any specific document anywhere that talks about BMP's for ag as to a reference?

(#1508) Allan Borden: The Conservation District or their consultants would have some. Where a county permit is required typically it is reviewed by DCD and the planner whose area it is in. They go out to the site and look at what is being done.

(#1540) Diane Edgin: What kind of criteria do you use so you all have the same standards?

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(#1550) Darren Nienaber: It's spelled out in the WAC's.

(#1560) Theresa Kirkpatrick: So it is defined. So if that planning department person went out and saw that it did fit the definition then we would need the HMP.

(#1572) John Diehl: Although it's true that there is a lot case law with respect to what comprises a significant impact. It is in the context of SEPA where the distinction is between those projects so large that they require an EIS and those that can get by with a determination of nonsignificance. I don't think you want to be using that distinction to determine whether or not an HMP is required. That's a pretty large impact the case law would suggest. All of us might agree that a given impact was significant enough that you should have an HMP but not significant enough that you need an EIS for the farmer doing what he wants with his fields or his cows.

(#1610) Theresa Kirkpatrick: That's what I'm trying to arrive at.

(#1620) Bill Dewey: Just to compare options - John's recommendation would be to delete this whole section C and insert a new section J back on page 6. Allan, where you say where a county permit is required do you intend that to mean for a new activity?

(#1675) Allan Borden: Yes.

(#1722) Diane Edgin: I think what he's trying to say is that as long as BMP's are being employed then you don't have to have an HMP.

(#1780) Bill Dewey: I don't know the best way to address this. Does anyone have a recommendation?

(#1792) Diane Edgin: He's asking for HMP's if it's adjacent to the designated FWHCA. I was thinking there was supposed to be a buffer there anyway. I thought we put a buffer in on the agricultural end of it.

(#1840) Bob Fink: There are no special buffers for agricultural use.

(#1858) Diane Edgin: And now we're being asked to put them back in?

(#1862) Darren Nienaber: The GMHB has asked us delete the blanket permit exemption for agriculture activities.

(#1877) Steve Clayton: So we're eliminating the blanket but putting in where the administrator has the ability to determine ...

(#1882) Darren Nienaber: So in that sense we're exceeding the GMHB's requirement. The GMHB only required that the exemption be eliminated so the county went further and said that we're going to regulate existing and ongoing agriculture. It's a little bit different from any other activity that's out there. We're actually going to say that it may have an environmental impact and therefore you can't do it or limit it somehow by getting an HMP.

(#1922) Steve Clayton: So the difference between that and what Mr. Diehl is recommending is ...

(#1926) Darren Nienaber: He's recommending to go even further.

(#1940) Diane Edgin: I really hate putting any more burdens on what few farmers we have. If we eliminate what they're asking us to do is one thing but I would hate to go too far.

(#1975) John Diehl: My proposal is not to make an HMP be required but I think that would not be unreasonable. I agree that we don't want to unduly burden the farmer. In the staff proposal it's not clear when a county permit is required for existing agriculture and it's not clear what standard the administrator would use to determine whether to require it so I preferred something that was a little less up in the air. I'm saying that if the farmer agrees to abide by BMP's and assuming the county adopts something specific as BMP's then everybody has a simplified route. On the other hand if the farmer doesn't want to abide by BMP's then we need to have a backup procedure which would be an HMP.

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(#2050) Bill Dewey: So what he's proposing might be even less burdensome for the farmers. So it looks like you're going to an HMP unless the county has previously adopted BMP's applicable to such uses. But if we adopt this and the county doesn't do these BMP's then every farmer, whether the administrator thinks it's necessary or not, has to do an HMP until the county gets these BMP's in place.

(#2166) John Diehl: That's the point. It makes a lot of sense for the county to do this and this is going to create incentives for everyone to do it. We're not setting any deadlines in this and I think common sense says you don't immediately go out and get farmers for not having an HMP or BMP's so there's flexibility here in terms of how quickly the county gets around to adopting BMP's. But as staff has suggested there are various formulations that have been given in written versions and I think that's the way to go.

(#2222) Theresa Kirkpatrick: Maybe our first motion would be to recommend that the county adopt some form of BMP's at the earliest possible date.

(#2230) Bob Fink: I have a third suggestion. The county adopted, and the GMHB approved, an exemption for existing agricultural activity in landslide hazard areas based on BMP's. The language reads 'existing and ongoing agriculture, aquaculture, floriculture, horticulture, general farming, dairy operating under BMP's of the WSDOE stormwater, water quality, hazardous waste, wetland and solid waste programs and the BMP's from the DOH, Agriculture, Transportation, and State Conservation District office are exempt'. Someone asked if there was a book on BMP's. No, there isn't. It's an ever evolving series of recommendations that are dependent on the site, on the soils, on the activity being done that are applied by the technicians that are experienced and trained in those subjects. So if you are looking at language to apply BMP's, I would recommend this language that has already gone through the GMHB once. I don't see anything in here that wouldn't be applicable in the general environmental protection framework.

(#2310) Steve Clayton: So if we used John's wording and we put that in as a separate section as a definition for BMP's?

(#2315) Bob Fink: I would prefer this approach rather than expecting the county to ever adopt BMP's. It's a moving target and a very complicated field.

(#2326) Steve Clayton: How would you recommend that we word it or incorporate it?

(#2334) Bob Fink: I believe the language I just read to you would work.

(#2360) Theresa Kirkpatrick: And that was applied to Geologically Hazardous? And accepted by the GMHB?

(#2362) Bob Fink: Yes.

(#2364) John Diehl: So in plugging that in as a substitute for what I recommended it would read something like 'any ongoing or proposed agricultural uses within the designated FWHCA where there are buffers except where said practices are consistent with or adhere to BMP's etc.' I think it's important that you have something more than the phrase BMP's. I don't have too much problem with what Bob is suggesting. We're saying that if you don't want to abide by BMP's then you need an HMP. But if you're willing to sign onto those and if we can define those sufficiently in terms of state agency language then that's adequate.

(#2352) Bill Dewey: Related to that, we as an industry find that there are no state BMP's for the shellfish aquaculture industry so we've been working diligently as Pacific Shellfish Growers Association developed coastwide BMP's which we're hoping to have independent third party certification that wouldn't necessarily be governmental but would share compliance with these BMP's.

(#2472) John Diehl: One reason I proposed it as I originally did was the concern that there are a lot of things around called BMP's but how do we know what they are. Bob's suggestion leaves me a little bit queasy because there are a number of different recommendations from different agencies but I think it's not unreasonable to do it that way. The alternative would be to put these together in a single document but I'm willing to say that it strikes me as within the range of reason to do it as Bob suggested provided that the landowner will commit to BMP's if he is to not have to do an HMP.

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(#2530) Diane Edgin: These agencies come out with their BMP's based on their criteria for their agency. Who is going to be the lead agency? In other words, one standard under one agency could actually be different from the next agency but yet they're applying it to the same basic aspect of what we're talking about. I still would think that your county extension agent through the college should have a BMP for ag.

(#2565) John Diehl: I think you're right, Diane. The trade off here is that we could get some fairly precise direction to give to farmers if we had a single document and the other side of it is some uncertainty as to when the county would ever get around to adopting it and so Bob's suggestion is not unreasonable.

(#2612) Theresa Kirkpatrick: The other issue I don't see addressed is what kind of oversight will there be? If a rancher said that they will adopt those does anyone go out and see if the cows are walking in the water? I don't see any provision for that in here.

(#2624) Darren: The enforcement provisions are in a different section and typically we respond to complaints. We definitely lack the financial resources to go out and police. I believe a violation of the RO is a crime so I would charge them or it would be in the alternative a civil violation brought in front of the HE and face a \$1,000.00 per violation per day.

(#2660) Warren Dawes: Just as an example the Conservation District and DOE are working with the farmers out in the Skok to develop a plan, site specific, for each farm out there regarding BMP's to protect the water quality.

(#2690) Diane Edgin: Do we have any more discussion or a motion?

(#2740) Bill Dewey: If I was going to take a stab at a motion it would be that we accept the countys recommendations for addressing the ag exemption with the exception of the bold lettering on page 8 of the FWHCA document. With that we would recommend deleting that section C and on G1 insert a new J to read as per Mr. Diehl's December 16 comments on page 3, #3 beginning with 'any ongoing or proposed ag uses within designated HCA's or their buffers' and then insert Bob's BMP's language. Then add last sentence 'HMP's must specify effective means for keeping domestic grazing animals out of FWHCA's minimizing impacts from intrusion into FWHCA buffers and avoiding significant interference with species migration'.

(#2955) Theresa Kirkpatrick: I second the motion.

(#2958) Diane Edgin: We have a motion and a second. Any discussion?

(#2985) Bill Dewey: I'm concerned about Bob's list and the shellfish industry has worked hard to come up with comprehensive BMP's unlike anything that the state or county has adopted. What we're working on is a third party audit program to ensure that we are implementing them. It would be every bit as good as anything that you listed.

(#3080) Theresa Kirkpatrick: I am in favor to also include the shellfish growers BMP's. Bill, would you like to amend your motion to include that?

(#3104) Bill Dewey: Yes, I move to amend my motion to include listing the shellfish growers BMP's.

(#3106) Theresa Kirkpatrick: I second the amendment.

(#3108) Diane Edgin: The motion has been made and seconded to accept the shellfish growers BMP's into the document. Any further discussion? All in favor? Motion passed.

(#3232) Steve Clayton: Let's start at the beginning with the first item. 'Has Mason County assessed through an FSEIS the probable adverse environmental impacts and cumulative effects of the creation of 194 new LAMIRD's'? The one adjustment we did there was Mr. Dawes concerns about the hamlets. We had concerns raised about sub-area zoning.

(#3300) Allan Borden: You realize there are only 175 LAMIRD's.

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(#3450) Bill Dewey: We've addressed the 2<sup>nd</sup> and 3<sup>rd</sup> ones and they are okay. The 4<sup>th</sup> one is summarized in the table and so it's okay. The 1<sup>st</sup> one we still have to come back to. The open space corridors is going to take some discussion. Let's come back to that.

(#3650) Diane Edgin: The next issue would be 'Has Mason County demonstrated that its restrictions on rezones in criterion I effectively reduce sprawl'?

(#3820) Steve Clayton: We had concerns raised there about the special use permit and the non-conforming issue.

(#3940) Theresa Kirkpatrick: There are some definition issues that we should look at. For example, mini storage units being defined as a rural tourist activity. It gets back to the definition of retail.

(#0115) Bill Dewey: In Mr. Diehl's comments on page 4 regarding the rezone criteria he's basically rewritten 1 through 8 and providing alternative language for each one of these.

(#0140) Mr. Diehl: The court order says that the county must demonstrate that its restrictions on rezones in criterion I effectively reduces sprawl. That language is broader than that. What I want to emphasize is that so far as the GMHB has reviewed this the main point is not what actually falls within criterion I but what is found in the rezone criteria generally that serve these purposes to effectively reduce sprawl. That's what you need to be asking yourself because I assure you that the GMHB will be asking that broader question.

(#0192) Bob Fink: There's a couple issues that I would like to point out with his proposed language. One is on page 5 #4 he talks about the increase in demand of urban services and then he lists rural services. The idea of not increasing the demand for urban services is consistent with GMA goals and the county goals as incorporated in the Comp Plan but what I'm concerned about is this language listing specific services that are rural services and you shouldn't expect the police protection not to be provided in the rural area. You could put a 'period' after 'in rural areas' and strike the rest of the sentence. That would make it consistent with the goals of the ACT.

(#0292) John Diehl: I largely agree with Bob's comment this this specific item. I borrowed language from the staff proposal but it's true that #4 doesn't characterize these services as urban services and I think he's correct that streets are not necessarily urban services. I think it would be adequate and avoid his concern to stop after 'in rural areas'. The fundamental thing you could give direction to is do you agree with the concept that I'm putting forward that we should have real criteria with some specificity and not simply having categories? What I'm saying is let's use the notion of criteria more literally and create standards.

(#0395) Bill Dewey: With that said, I make the motion that we direct staff on these rezone criteria to make the criteria more than just categories and to follow the guidelines provided by Mr. Diehl's comments to provide more specificity.

(#0430) Steve Clayton: I don't know that it needs to be in the form of a motion or to just be a recommendation to detail out the things that Mr. Diehl has said.

(#0435) Allan Borden: I'd like to suggest that if we're going to change these criteria that they should be phrased so that the applicant responds to the information the county would like to have in order to make an accurate finding rather than posing them in questions as Mr. Diehl has. That still doesn't provide specific information from the applicant to state what they think their proposal will do for those attributes that are listed.

(#0477) Bill Dewey: I think that's a good suggestion, Allan. I guess I'd include that as my request to staff whether we're doing it in a motion or a recommendation.

(#0486) Allan Borden: The other thing is that #4 in the order actually says that the county must demonstrate its restrictions on rezone criteria in criterion I. It makes no mention of criterion A through H. So what Mr. Diehl is doing is he's widening the spectrum of the remand request from the GMHB to include A through H when it didn't include it previously.

(#0515) John Diehl: You could build in each of these rewritten criteria into I if you wanted but the point that



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I'm making is that you need to keep in mind that whatever you end up with it needs to reduce sprawl.

(#0525) Bill Dewey: This is related to the discussion we had earlier related to Deer Creek and Bayshore and the issue of rezone and Bob's recommendation was to get specific on your rezone criteria.

(#0540) Diane Edgin: John, I have a question on the rezone information. You're talking about deleting the paragraph created to an exception for existing RV parks to the rule that limits the lengths of stay. Why would you want to delete that?

(#0555) John Diehl: You're getting out of the rezone criteria now.

(#0560) Bill Dewey: Are we satisfied with the recommendation for staff or do we need it in the form of a motion?

(#0565) Darren Nienaber: You act by motion.

(#0570) Steve Clayton: I second Bill's motion.

(#0572) Diane Edgin: We have a motion and a second. Any further discussion? All in favor? Motion passed.

(#0595) John Diehl: To address your question, Diane, is why distinguish between existing RV parks in terms of lengths of stay as opposed to new RV parks? In most cases it seem to me to avoid having RV parks that are in fact trailer parks you want to have some reasonable limits and I think the limits in the staff recommendation are really generous - 180 days. I'm just saying there's no good reason to distinguish between the rules that should apply to new RV parks as opposed to existing ones.

(#0652) Bob Fink: There is a reason for doing it. People do live in RV parks and have for years and unless we're going to start kicking them out... It's one thing to impose this condition as a new condition on new parks and the reason it was crafted that way was we wanted to avoid imposing this new condition on existing parks and their operation where there have been no concerns.

(#0705) John Diehl: If they're really RV parks then they should be for transients although Bob's point is well taken I want to say if we have existing parks which are really not transients then they shouldn't be zoned as RV parks. They may be non-conforming uses and we may want to allow them to continue with permanent RV's in place but if we're going to, in the future, distinguish between RV parks and mobile home parks then let's preserve that distinction.

(#0734) Bob Fink: That's exactly what we're trying to distinguish and that's why the park model mobile home was a concern because our concern is not allowing new residential density in the rural area at the kind of density that you would expect in an RV park. On the other hand, RV recreation is certainly legitimate rural activity and we were trying to allow that as an activity without increasing rural residential density.

(#0758) John Diehl: This goes back to do we call the things that aren't really the way we'd like them ideally now as conforming uses or non-conforming uses?

(#0765) Diane Edgin: I think we'd have to go back to the State Department of Licensing because they call these park models RV's even though they're not self propelled or not really towable except when you put them in place.

(#0800) John Diehl: Don't you then want those situations where there are those kinds of rentals to be deemed non-conforming? Not that we're telling anyone that they have to move out but if this kind of use is not going to be sanctioned as an ongoing conforming use.

(#0815) Diane Edgin: We're talking about new parks.

(#0817) John Diehl: No, the distinction here is between existing and new parks that the staff proposal would make and what I'm saying is fine, the staff proposal has it right with respect to new parks but as for existing RV parks either they should conform to the new standards or they should be deemed non-conforming uses.

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(#0830) Bob Fink: The RV parks were approved for what they are.

(#0855) Theresa Kirkpatrick: Somewhere in here there's language defining an RV as something that was towable by a light duty truck. I spend many months of the year living in a motor home so I know about it and the suggestion would be to strike out the words 'light duty truck'.

(#0882) Steve Clayton: In Mr. Diehl's comments, Bob, he had mentioned a limit and you both agreed on five annual alterations. He had listed a limit also of 50 acres. There are some pretty big parcels that we're already looking at in the Comp Plan as rezoning.

(#0915) John Diehl: I think you'd want to consider something; I choose 50 after thinking about it a bit but if you don't like 50 you can choose another number.

(#0925) Steve Clayton: Our current potential rezones that you came out with, Allan, weren't they in the several hundred acres?

(#0934) Allan Borden: Those are basically development density rezones. Residential to residential.

(#0945) John Diehl: This is to more intense rural uses.

(#0955) Allan Borden: A lot of those requests are from RR20 to RR5 or RR10 which technically is a more intensive use.

(#0962) John Diehl: What I'm suggesting is with respect to the commercial rezone.

(#0990) Bill Dewey: I don't know about you guys but for me for that more intensive where you're going to commercial, 50 acres seems like a reasonable number to me.

(#0995) Theresa Kirkpatrick: I agree.

(#1010) Steve Clayton: What are your thoughts on it, Allan?

(#1020) Allan Borden: None of the ones that were quered up were commercial. There was one that was RR that wanted to be RT.

(#1040) Steve Clayton: That would include this because it's RR to RT. So if someone has an 80-acre parcel and wanted to put a campground on it wouldn't be able to do it.

(#1050) John Diehl: They might well be able to because it's pretty unlikely anyone would propose to suddenly convert 80 acres to an RV park. He might own 80 acres and be proposing to convert 20 of those acres to an RV park and that could be done without changing the zoning of the entire parcel. There's no rule that says you have to have the entire parcel in one zone. You could create an exception by saying 50 acres unless it's a Boy Scout Camp but I think the other more plausible thing is to choose an acreage and then if a project comes along that seems to have real merit that requires that you rethink that they you can rethink it then. Keep in mind that any rezoning is going to take some kind of amendment process anyway. What we're trying to do is lay out some guidelines so people don't get carried away with their thinking that we're back in the old days of business as usual.

(#1150) Diane Edgin: Do you feel that 50 acres is enough?

(#1155) Darren Nienaber: You could recommend something substantially similar to John Diehl's and that would include the 50 acres. If you didn't feel that was the right number you could take a straw poll and take it from there.

(#1175) Diane Edgin: We limited to 5 rezones a year.

(#1178) Darren Nienaber: That's for commercial, industrial and Rural Tourist.

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(#1180) Diane Edgin: So if we're talking about those three and you talk about RT you could very easily be talking about more than 50 acres if you're talking about a golf course, or riding trails, etc. So 50 acres may be on the low side. 100 acres might be more compatible to RT unless you want to break out RT by itself.

(#1205) John Diehl: Or you could make exceptions for these categories of what you might call low intensity large acreage uses. Golf courses or Boy Scout Camps was not what we were thinking of in terms of trying to restrict commercial development.

(#1230) Darren Nienaber: You could exclude the category Rural Tourist Campground.

(#1238) Bob Fink: I'm just wondering if Rural Industrial was an issue, too because if I think of some of the larger saw mills that are located in rural areas they're usually located on sites greater than 50 acres. They cover a lot of land just because of their intensity of use.

(#1270) Diane Edgin: What if we said out of the 5 rezones like you were mentioning that something like that might require no more than 100 acres without some sort of review.

(#1282) Bob Fink: You have the most intensive review you can do by taking it through the legislative process which is what a rezone is.

(#1300) Bill Dewey: There's nothing that says we have to put an acreage restriction on it. We're listening to John's comments and just reviewing them.

(#1306) Bob Fink: Another option you might consider is simply not applying it to RT Campground and Rural Industrial and Rural Natural Resource.

(#1322) Steve Clayton: The intent is effectively to reduce sprawl and my concern is having some parcels being broken up into smaller parcels and essentially we're sprawling because a big landowner has gotten it through versus the little guy.

(#1342) John Diehl: That's the point of the acreage, too. To try to make sure that it's not a bunch of big landowners that total thousands of acres conceivably that are suddenly getting converted from productive agriculture and forest uses to commercial uses and creating sprawl. I think the provision for some kind of exceptions may make sense but I would hope you'd still keep some kind of acreage in mind because although this is not something that was called out in the remand but it certainly fits within the issue of reducing sprawl which was part of the remand.

(#1428) Steve Clayton: What would be the thoughts of having the staff bring something back to us on that particular aspect?

(#1438) Diane Edgin: I'm to a point right now that if we want to make a motion to remand it back to staff and have them tweak it.

(#1444) Darren Nienaber: It's not really their job; your job is to take their recommendation and say that this is what you want and what you recommend. That's the legal duty of the PAC. If you like 50 then okay but if you're not ready yet that's okay.

(#1485) Diane Edgin: I would say that we would go with the 50 acres on a rezone unless it's a single use rezone and then it would have the staff review based on usage.

(#1530) Janet Dawes: What about if you adopted 50 but with the exception of Rural Natural Resource, Rural Tourist and low impact uses and incorporate that in and then it seems like you're incorporating your concerns. If you go with just the one large use you could end up with something you don't want.

(#1566) Steve Clayton: So we're talking about putting a specific number on it and exempting Rural ...

(#1570) Bob Fink: The current language does not include Rural Tourist or Rural Natural Resource.

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(#1585) Darren Nienaber: Our proposal was to include Rural Tourist; I don't believe the intent was to include Rural Tourist Campground which is a separate category. The remand was to make sure that it applies to Rural Tourist.

(#1630) Steve Clayton: In what Allan gave us here it says does it extend to Rural Tourist or Rural Natural Resources but in our wording it doesn't extend to Rural Natural Resource.

(#1644) Darren Nienaber: That's right. I think the GMHB was a little confused. We did include some wording regarding considering the development on Rural Natural Resource parcels. You could have a huge hillside that's a mine and the buildings are ½ mile up the hill so how are you going to get sprawl out of that? If all the building were right next to its boundary and you have something right next to it maybe ... We also didn't believe that the uses allowed for under Rural Natural Resource on a LAMIRD as defined by the GMA ... I don't want to speak for the petitioners but my general impression was that they didn't necessarily strictly disagree with that in overall principle. It specifically does not include forestry and ag in the GMA so we didn't think that LAMIRD's as set forth in the GMA included Rural Natural Resource. We modified one of the criteria to consider the placement of structures within and RNR district under rezones so that it would not be conceived as sprawl.

(#1780) Diane Edgin: I make a motion to have 5 rezones and 50 acres with the exception of Rural Tourist and Rural Natural Resources.

(#1776) Steve Clayton: I second the motion.

(#1778) Diane Edgin: We have a motion and a second. All in favor? Motion passed.

(#1790) Steve Clayton: So we're going to save RO issues and on 1<sup>st</sup> page the 1<sup>st</sup> and last item.

(#1796) Bill Dewey: On the RO we've covered page 3.

(#1805) Bob Fink: I you don't think that you can finish tonight I would strongly urge you to schedule a meeting next week

(#1830) PAC: We won't be available next week due to the holiday.

(#1850) Diane Edgin: I perused the open space handout and we were talking about 'in' and 'between'. It says 'cities and counties planning under the GMA shall identify open space corridors within and between UGA's'. It also says 'trail easements can often be piggybacked on public utility right-of-way'.

(#1888) Bob Fink: I've been in communities where the ability to save the railroad corridors for trails was lost because the community wasn't prepared with existing policies to transform that railroad corridor into a trail and preserve it rather than let it go to the property owners and be lost forever.

(#1915) John Diehl: There's no dispute with that. The Advocates for Responsible Development are all for having this as a sort of contingency. Our point is simply that having it as a contingency where it might eventually become a useable open space doesn't make it one now and the responsibility of the county is to provide for open space now.

(#1935) Diane Edgin: Another sentence in here says 'Open space corridors which weave through and around a community can bring open space close to many peoples doorsteps. They can often follow and be used to protect sensitive areas such as floodplains and steep slopes, etc.'

(#1955) Bob Fink: The county designated steep slopes and wetlands and streams as open space already. Those are all already designated as open space. We're not relying on the railroad right-of-way. We're designating the utility corridors also and what we would do is show it on the map. Another form of open space is the clustering provisions can be used to establish corridors. If you look at our clustering provisions they enhance stream corridors by providing open space to be designated next to open space. So if you have a protected stream or a wetland and you're selecting where your open space is going to be, the criteria

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directs you to put that next to the open space that's already there. Those are the types of open space corridors that we have provisions for. It's also clear that the Resource Lands are also open space. We have 200,000 acres of open space in forest lands not counting the National Forests and National Park. We also have over 5,000 acres in Agricultural Resource Land that's designated as open space and as resource land. So we have a plentitude of open space. It's just identify and explaining adequately the open space corridors. It's just one corridor that was remanded by the GMHB that we're trying to focus on but to say that we don't have any open space is seems to be unreasonable.

(#2088) Diane Edgin: We have the Allyn to Belfair done and we don't have the ability to know which parcels between here and Allyn would need to be designated but staff would to meet this criteria on this timeline without us having to stay here all night or trying to come back when we're not sufficient in numbers.

(#2110) Darren Nienaber: Are you recommending drawing a corridor that links the various things that he listed? Is that a motion?

(#2120) Diane Edgin: Yes, I make a motion that we direct staff to make a corridor between Allyn and Shelton.

(#2145) Bill Dewey: You made your motion and we need a second. Do you feel in response to Mr. Diehl's concerns that the county has yet to propose DR's to protect the open spaces? Do you feel that should be part of the motion as well besides mapping it?

(#2166) Darren Nienaber: I wasn't making a recommendation; I was just helping you along your journey.

(#2184) Bill Dewey: My question to staff is do you feel like there are adequate DR's in place to protect those open spaces?

(#2188) Bob Fink: I disagree with Mr. Diehl respectfully that there is a requirement that we create designations that when we designate an area for open space that we have to have a new regulation that applies particularly to that area. Most of our open space areas are protected by various regulations. The ones I've mentioned, the wetlands, the ag lands, are all protected. What we're talking about in the open space corridors is like a park. Well, you don't go out and protect a park by a regulation. You investigate it and come up with a parks plan and if you have funding you go out and try to figure out how to pay for what you want to do. If you can't pay for it then you revise your plan. You might look at several different alternatives and do one of them and not the other. To me that's open space planning in the sense of parks and corridors. The particular corridor that's drawn that's between Allyn and Shelton was designed to run from the critical areas and from one shore to the other. It was designed to take advantage of existing resource land open space that is protected and also take advantage of other assets like existing parks, etc.  
(#2278) Bill Dewey: Do you feel that it also meets the criteria of 'within and between'?

(#2280) Bob Fink: It's definitely between two UGA's. On reading these criteria I don't think it says that you have to have a continuous corridor connecting every UGA. You could have corridors running from one critical area to another, you could have corridors that provide simply recreational trails from one subdivision to another; all those things would meet the definition of open space corridors between UGA's.

(#2314) Bill Dewey: With that said, you motion no longer has merit.

(#2317) Diane Edgin: I withdraw my motion.

(#2319) Theresa Kirkpatrick: I would like to make the comment that it looks like this document designating your community's open space would be very valuable background information to those of us who has never had education with this and this completely redefines open space corridor as we were discussing it at the meeting two weeks ago. This would have been extremely helpful to have in my hands previous to 8:40 this evening. It does present new information that in my mind completely redefines open space corridor.

(#2374) John Diehl: I don't see that open space corridors have to be parks or trails. Open space corridors can be those things but they don't have to be and one can secure them without going out and buying land between point 'a' and point 'b'. You secure them in part by assuring that the kinds of development that

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occurs in spaces where you're trying to establish these corridors does not close the avenue. In this case we have the possibility of maintaining this open space that is now in larger blocks but perhaps with the requirement that where someone builds on a 5-acre parcel that it be done in such a way as to preserve the open space corridor that crosses their property. It's not a matter of needing to severely restrict in a way that requires purchase of property, it's the matter of directing the use to a part of the property and maintaining densities.

(#2552) Bill Dewey: So do we have a recommendation on how to deal with open space?

(#2558) Steve Clayton: I think I'd like to read over things a little bit.

(#2560) Theresa Kirkpatrick: I can't speak to it.

(#2564) Steve Clayton: What are the chances of postponing the BOCC hearing on the 30<sup>th</sup>?

(#2568) Bob Fink: I don't know.

(#2570) John Diehl: You could recommend that.

(#2577) Bill Dewey: We could make a recommendation to request the BOCC postpone their hearing regarding this in that we haven't been able to address all the issues ourselves or if they're not comfortable with that they they'll have to go without recommendations from the PAC in the remainder of the issues.

(#2605) Bob Fink: You need to consider that these are due in February.

(#2615) Theresa Kirkpatrick: I believe that at the last meeting the petitioners expressed some flexibility on that.

(#2618) John Diehl: Yes, this is not an issue. Yes, it would be wise to ask for an extension if it can't be accomplished by mid February. But no terrible thing will happen to the county; we are more than happy to grant an extension of a reasonable period of time as long as we see the kind of progress that we saw tonight.

(#2698) Steve Clayton: Would January 6, 2003 work if we continued this tonight?

(#2724) Theresa Kirkpatrick: I move that we request respectfully that the BOCC postpone the December 30, 2002 hearing.

(#2730) Steve Clayton: I second the motion.

(#2734) Diane Edgin: We have a motion and a second. Any further discussion? All in favor? Motion passed.

(#2740) Theresa Kirkpatrick: I move that we meet as a body on January 6, 2003 to continue and hopefully complete these issues.

(#2775) Diane Edgin: Also remember that our regularly scheduled meeting for January was moved to the 22<sup>nd</sup>.

(#2777) Darren Nienaber: If you have different people next time you could conceivably have this discussion forever. So I recommend that you set an agenda or accept what you've done.

(#2815) Bill Dewey: Our agenda for the next meeting would be to address the FFA's, LAMIRD's and open space corridor.

(#2830) Steve Clayton: And being a special meeting we won't have any variances. What's the current status on variance proposals? Are special use permits now going to the HE?

(#2855) Allan Borden: The issues that have to do with the SMP you will continue with for a while longer. The

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amendment has to be approved by the BOCC and DOE.

(#2880) Bill Dewey: I move the agenda for the January 6<sup>th</sup> meeting include FFA's, LAMIRD's #1 and open space.

(#2905) John Diehl: A fairly large subject is the remand of the RC zoning and the uses allowed. I haven't understood you to have covered that yet.

(#2930) Bill Dewey: I will include that in my motion; the RC zoning.

(#2942) Theresa Kirkpatrick: I second Bill's motion.

(#2945) Diane Edgin: We have a motion and a second. All in favor? Motion passed.

Meeting adjourned.