

MASON COUNTY PLANNING ADVISORY COMMISSION

Minutes
February 23, 2004

(Note audio tape (#3) dated February 23, 2004
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 Bill Dewey at 6:00 p.m.

2. ROLL CALL

Members Present: Bill Dewey, Diane Edgin, Steve Clayton, Mark Drain, Wendy Ervin, Terri Jeffreys, Bob Sund.

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

3. APPROVAL OF MINUTES

None.

4. NEW BUSINESS

(#0045) Bill Dewey: The main purpose of our meeting tonight is to review, discuss and recommend proposed revisions to Mason County Development Regulations, Resource Ordinance, Title 16 Plats and Subdivisions, and Title 15 Development Code. Allan, where should we begin?

(#0070) Allan Borden: I've been trying to keep track of what we have accomplished and what's in the process of being revised and what's left to do. Last time we covered shipping containers, fire apparatus access standards, and Public Works use of BA and BE, and an exemption from the RO for work done outside of the easement but through approved BMP's. At the last meeting there were two topics that had to be revised that were presented and that was the septic system/sewer connection and we started on combining the area of existing development already in the buffer to reduce impacts and intensity of use. In the meeting of January 26th we addressed cemeteries and prohibition of building in an easement. Let's try to finish up on the septic/sewer connection topic.

(#0215) Bill Dewey: Did I understand that we're waiting on some sort of feedback on that from the State Department of Health?

(#0220) Allan Borden: No, the local health department.

(#0222) Bill Dewey: Do we have that?

Planning Advisory Commission Minutes, February 23, 2004

(#0228) Allan Borden: I walked to Debbie Riley on Friday and she said that she would talk with Pam Denton today and get back to me and she did not get back to me by the end of the day.

(#0245) Darren Nienaber: Darren Nienaber, Mason County Prosecutor's Office. I had sent out an e-mail to Bill and Steve on this matter so I'll explain to everybody else. On the sewer hookup, let me explain the background. I didn't intend for the PAC to spend more than two minutes on the issue because I didn't think it was worth that much, in my opinion. It's not worth very much more than that of my own time. So if it takes more than that to even consider then I'd recommend withdrawing my proposal to you. However, why I originally recommended it was under our sewer code, which I've just handed out to you, on page 12 under paragraph 4.04 of our sewer code which has already been adopted in 1999, and it says you shall hook up to sewer. It makes it mandatory and so we've had that DR for a very long time. At one point we had ordered some homeowners to hook up. They fought that in Superior Court and then to the Court of Appeals and ultimately the county won that lawsuit; so they're required to hook up. There was one judge in that decision as a dissenting judge he said your sewer comp plan kind of allows for continuing septic systems. It says that they can continue to go on so in that dissenting judge's opinion, that's a conflict with the DR and in his opinion that should have prevailed. So Mike Clift asked me what we could do with this. Bob Fink and I looked at it and it's a descending opinion so they lost and it's always very clear that if there's a conflict between a Comp Plan and a DR, the DR wins; that's just fundamental case law around the country. Comp Plans are intended to be broad policy documents. Frequently there's going to be conflicting statements. There may be a statement that says septic systems can continue and there's going to be another statement that says you want to protect the environment. So very old septic systems frequently fail and are deleterious to the environment. You can't really look to the Comp Plan as providing ordinarily direct regulatory advice. That just sets the broader umbrella; the DR's implement it. I told Mike Clift that maybe I could get something quick with this annual review that fixes the Comp Plan Policy. My recommendation that I sent out to Bill and Steve is that you guys have a big plate; a lot of stuff coming up. You've got the Belfair plan, Allyn plan, sign regulations, the Overtons may be bringing their open space issue back, so when I say you shouldn't spend more than a few minutes on it I really mean that. It's not worth your time. If you want to withdraw it and move on, that's fine. The very simplest thing that could be done, in my opinion to get what should be accomplished, is on the Comp Plan Policy CF-503 it previously wrote 'Allow existing single family homes with septic systems to continue using septic systems that conform to existing standards. Replace deficient septic systems in a timely fashion.' You could just adopt it as the Planning Department has written it or you could simply say 'Allow existing single family homes and nonresidential development', and that is what the Advocates for Responsible Development had suggested, 'with septic systems to continue using septic systems that conform to existing standards, unless a sewer system becomes available'. That's all you need. Just say when it's available, you've got to hook up. When you start going down the road about how we're going to rehabilitate old septic systems, etc., that's a much bigger project. It's a great topic of conversation but we're going to need Environmental Health, Utilities, four PAC meetings; it's a much bigger project than what's on your plate today.

(#0452) Bill Dewey: This is a good fix to make it consistent with the code we already have and it's simple for now. There's a larger process in play at the state level right now and I've been participating on it for the past three years and that's updating the state onsite sewage regulations. Those will be working through a public process this year in front of the state board of health and likely be adopted in October. Then in '05, the counties are going to have to be updating their onsite sewage code to meet with the revised state code and that might be the time to try to get this in there.

(#0475) Wendy Ervin: We had in the past a situation in Allyn where one or more houses were required by the county to replace their septic system which wasn't functioning and put in the pressure system, spent \$10,000 per household and then were told they had to spend another 'x' of thousands of dollars to hook up to the sewer system and those people ... the sewer system was on the table and these people were still forced to put in a pressure system then spend again to abandon that pressure system and fill it in and hook up. If you have a failure of a septic at the same time you've got a plan in the works there should be some interim measure to just keep it from a dismal failure until they can hook up. It's not right to spend people's money twice.

(#0515) Darren Nienaber: I agree that there's hard luck cases out there but that would be changed in the DR's and it's something to consider when you look at Belfair and their sewer plan. That's not what's before

Planning Advisory Commission Minutes, February 23, 2004

you today. What's before you today is just formalizing our existing regulation and provide a senior policy that says the same thing.

(#0528) Bob Sund: Darren, I think your alternative is a good fix for now and continue it until we have to do something in October when the other regulations come through.

(#0535) Steve Clayton: The problem is we're in the process right now of hiring architects and designers for the Belfair system and it's a \$10 million project. If we don't do something to direct them on what direction to go then it will go down this road and this road costs a couple of million dollars more than giving the homeowners and businesses the option to sign up. I have the state WAC's here on what it takes to hook up to a system. The mandatory if there's a sewer available; the state does not say you have to hook up. It says you have to hook up if you have a failing system, etc., but if you have a conforming system there's not a requirement by the state to hook up. We seem to be the anomaly in this county requiring everybody to hook up. Here's the resolution that Kitsap County uses at one of their sewer districts and they don't require everybody to hook up. If they have a failing system the state WAC says they have to hook up. We need to fund capital facilities and in other counties it's real common to fund capital facilities through ULID's and that means that you define the service area and everybody pays into it but not everybody has to hook up so you pay in to build the plant and the sewer line and you get a stub. If you have a septic system that works you aren't required to hook up. Port Orchard has a very similar thing. They've had a sewer plant for years and they've added on piece meal distribution lines. The same thing as we're coming on with Allyn and Belfair. We have an existing plant in Allyn and we're going to put a new pressure line into Belfair. Darren brought this up for one purpose and that's to fix some inconsistencies there. My thought process is that we as a planning group should say the direction we believe the people of the county want to go, and the direction that should be gone, is to allow existing conforming systems not to have to hook up to the system.

(#0620) Mark Drain: What you're saying is the planning commission is asking to review the old regulation and the whole thing. We need to redo the DR that's in place?

(#0632) Steve Clayton: There is one DR that Darren brought forward that would also have to be changed but what he brought forward out of the Comp Plan, we can make the recommendation that we don't believe that's the correct direction to go. Then give direction to the staff to come back with a DR adjustment to match that. To change it today I don't think would be such a good idea. I think Darren brought up a good point that environmental health and also waste and utilities should have some input and I would like to be able to question somebody directly with why you want to penalize everybody that has existing active systems functioning.

(#0660) Diane Edgin: That's just kind of been the rule; not just here but all across the United States.

(#0665) Steve Clayton: I've just explained to you that's not everybody's approach. It's dramatically less expensive and dramatically more efficient for the county to put a main down the highway and stub it out. If people want to hook up, then hook up and pay your monthly fees.

(#0678) Bob Fink: So if you have one person decide to hook up now because everyone has a functioning system that one person pays to operate and run the wastewater treatment plant all by him or herself.

(#0684) Steve Clayton: Actually, it works really well because right now the wastewater treatment plant is being used at 40% or 50% of capacity. That's where it saves literally millions of dollars. You don't expand that one plant at this time because you don't know how many people are going to go and hook up and if all of Belfair went on, you still wouldn't be using enough capacity to expand it so we get the opportunity to collect from all people via the ULID process; we collect the money but we really don't have to do the expand part of the plant at this time; all we're doing is putting in the pressure line.

(#0705) Diane Edgin: So basically we going to pass on this, you're suggesting?

(#0710) Darren Nienaber: When you're adopting the Belfair plan, look at it then.

(#0712) Steve Clayton: Actually it would be in conflict with the county regulations if we adopt it in the Belfair

Planning Advisory Commission Minutes, February 23, 2004

plan. It's been dissolved so the group no longer exists.

(#0720) Darren Nienaber: The plan will be brought to you here.

(#0725) Bob Sund: Darren, this is actually what I thought happened. The cover sheet on this says 'North Bay / Case Inlet Sanitary Sewer Utility Administrative Code and that's what I recall happened out at Allyn because of the North Bay contamination in the oyster beds that they were requiring people there to hook up because of the problem there but I didn't understand that it was a county wide policy. When you get to 4.04 under required use ... the required use, I thought, applied to just North Bay, not the entire county.

(#0765) Bill Dewey: When you read 4.04 if you didn't have the rest of the document to put it into context you'd assume it would be the whole county.

(#0800) Darren Nienaber: It does say North Bay / Case Inlet all over it and part of my point was you've got so much on your plate ...

(#0810) Steve Clayton: We're talking about particulars here and I'm looking at more of the general concept; do we need to require everybody to hook up? If the consensus is kind of 'probably not' then maybe we should direct staff to ask Environmental Health and Public Works to come back and explain it to us. For a \$10 million project, I think it's better not to put it off. Literally the BOCC have been hiring consultants on this.

(#0835) Bob Sund: Wouldn't his amendment to this satisfy you and Belfair?

(#0840) PAC: No, it's going to require a hook up; it doesn't give them the option.

(#0844) Wendy Ervin: I think the property owner should be able to utilize and amortize the cost of that septic system for as long as it is viable and then when it becomes a problem or at the end of its life then you can't replace it or upgrade it; you'd have to go on the sewer.

(#0860) Steve Clayton: That's the reason why you pay into a ULID is because at some point in the future your septic system will fail. If you've paid into the ULID you've paid to develop the system and now you get to hook up.

(#0866) Bill Dewey: But you're not paying for the maintenance of it. Which is one of the criticisms of not getting everyone to hook up.

(#0872) Steve Clayton: But the facility is already built.

(#0876) Bill Dewey: So you're saying that they will pay in for the construction but just not the fee to hook up or the monthly fee.

(#0880) Steve Clayton: Right, just the variable costs.

(#0882) Bill Dewey: In the different counties that I've worked in where Taylor has shellfish farms, that's probably more common to have that approach as opposed to requiring people to hook up just because it's available, as long as they have a permitted working septic system.

(#0895) Miscellaneous discussion.

(#0985) Bill Dewey: I can see us spending the better part of the night trying to get through this.

(#0992) Bob Fink: I would suggest that you table it for the moment and I think we do need to talk to the utilities division and the health department and get them to respond at a minimum to the questions that were raised and explain something of the implications that are being proposed because I don't think anyone here is really an expert in those issues.

Planning Advisory Commission Minutes, February 23, 2004

(#1010) Darren Nienaber: You're going to need somebody who knows sewers better to talk about what's the implications on financing, what does environmental think about it; is it a good policy overall. What happens if 80% of the septic are officially okay in Belfair? No sewer then?

(#1025) Wendy Ervin: If everybody is paying to install it then the cost of installation is spread over everyone whether you have a septic or not.

(#1028) Darren Nienaber: Another thing; to change the regulations, which might be in direct conflict with the whole separate code, and I've only brought you one utility code. There's several other chapters to the utility code so you've got a huge project.

(#1040) Diane Edgin: I make a motion we table this until we get additional information.

(#1045) Terri Jeffreys: I second the motion.

(#1050) Bill Dewey: If we're going to table this, I'd like to give staff appropriate direction to get it back on the table.

(#1055) Diane Edgin: Bob said we need some department people to come in and talk to us about the different sections of it.

(#1060) Bill Dewey: I think Steve has raised a valid point that if we go down this direction of requiring a hook up it changes the game plan for Belfair. It increases the cost up front ...

(#1074) Steve Clayton: If you don't require everybody to hook up it reduces the property owners cost.

(#1978) Bob Fink: There was a general policy adopted for the county in 1996 that didn't require mandatory hook up generally. When the Allyn sewer system was being built there were environmental concerns about sewers operating there in general. There were failures some of which couldn't be identified and it was a brand new system that needed operating funds as well as just construction funds so the decision was made for that area that everyone within a certain distance of the shoreline or the utility line would have to hook up. So the recommendation to make a clear connection would be to 1) amend the Comp Plan to recognize that in certain cases hook ups may be required, or alternately maybe it is the best policy of the county to mandate hook ups anywhere under certain circumstances. That's what we'll examine next time.

(#1125) Steve Clayton: If you'd like I could actually talk to one of the engineers out of one of the other systems that actually designed and put together a ULID and see if he would be interested in coming.

(#1132) Darren Nienaber: Bob sets the agenda.

(#1142) Bill Dewey: Bob, do you have enough direction as far as additional information to come back to us with at this point?

(#1145) Bob Fink: Yes.

(#1148) Darren Nienaber: I think that's going to take more time. This is something that actually gets tied into with the Belfair plan and your overall strategy for that area.

(#1170) Steve Clayton: We didn't discuss sewer with the Belfair plan. We didn't determine areas of coverage or any of these sort of concepts.

(#1175) Bob Fink: We also probably need to examine what's in the study that was done. There is a utilities plan for Belfair included in that. We simply need to get someone who is more familiar and has the expertise in that subject area. When we do that then we'll bring it back to you.

(#1188) Steve Clayton: It's a multi million dollar question that if we expedite it we'll save the local people literally millions of dollars.

Planning Advisory Commission Minutes, February 23, 2004

(#1215) Bill Dewey: We have a motion and a second to table this. All in favor? Opposed? Motion passes.

(#1300) Allan Borden: Let's go back to the first set of revisions and start with (a). It's very obvious. We're just putting a definition in there that wasn't in either the DR's or the RO. 'Residential Development is the development of land or the construction or placement of dwelling units for residential occupancy and accessory uses'.

(#1360) Steve Clayton: I make a motion that we accept (a) as designed by staff.

(#1362) Diane Edgin: I second the motion.

(#1364) Bill Dewey: We have a motion and a second to accept (a) as presented by staff. Any discussion? All in favor? Opposed? Motion passes.

(#1380) Allan Borden: On to (b).

(#1390) Darren Nienaber: Just for the record, we have just one person as a member of the public and she's already indicated that she didn't want to testify. However, if you do want to testify at any point please indicate to the Chair. It just may not be clear later when you're reading over the minutes that when you're just making a motion, adoption that no one has indicated they want to testify.

(#1412) Allan Borden: So (b) is a revised definition in the DR's regarding front yard. We're adding 'front yard setback' to this definition so it now reads 'The space extending the full width of the lot between a structure or building and the front lot line or road easement boundary, whichever is closer. The setback is measured perpendicular to the building to the closest point of the front lot line or road easement boundary, whichever is closer'. In that figure 1.06A that's what I'm referring to.

(#1460) Bill Dewey: So if you're trying to cheat the system and get your house closer to the road because you were hurting for space it sounds like you could turn your house on an angle and get a longer line.

(#1470) Allan Borden: It doesn't matter if it's the side of the house or the front of the house that faces the front lot line or road easement.

(#1476) Wendy Ervin: If your house is set perpendicular to the easement and you're measuring perpendicular to the building, perpendicular ... you're wanting to measure from the closest point of the house to the road so you want to measure perpendicular from the road not the house. If the house is a variable the road is a relatively straight line.

(#1495) Bob Sund: You need to turn that around; perpendicular from the road to the closest point of the house.

(#1500) Bill Dewey: Do you understand that, Allan? Do you agree?

(#1510) Allan Borden: I know what you mean and I'm just trying to think of circumstances where that would really make a difference.

(#1525) Bill Dewey: Bill draws illustration on board.

(#1540) Wendy Ervin: It's measured perpendicular to the building to the closest point on the front lot line and I'm just saying it should be perpendicular from the road to the house.

(#1560) Steve Clayton: When you're working on a cul-de-sac or a curved road that verbiage 'from the road to the house' would be more consistent, wouldn't it?

(#1568) Bob Fink: The sentence was worded oddly. It says 'perpendicular to the building' it doesn't say 'from the building'. But it doesn't say 'from the road', either. What you want to measure is perpendicular from the

Planning Advisory Commission Minutes, February 23, 2004

road or road easement to the closest point of the building.

(#1582) Darren Nienaber: I don't think you need the word 'perpendicular' in there; just 'the closest point'.

(#1584) Wendy Ervin: What you're measuring is the setback from the road; you're not measuring a setback from the house.

(#1590) Bob Fink: Let's take out the word 'perpendicular' because I think that's confusing.

(#1600) Bill Dewey: So you'd say where 'the setback is measured' you'd delete 'perpendicular to' and just say 'the setback as measured from the building to the closest point of the front lot line or road easement boundary, whichever is closer'.

(#1640) Allan Borden: Okay.

(#1655) Terri Jeffreys: I move we accept the new definition for 1.06 with the changes taking out 'perpendicular to' and replacing it with 'from'.

(#1665) Steve Clayton: Before we second that do we want to address the second part of that same (b) which is the definition of 'lot'?

(#1692) Bill Dewey: Terri, does your motion include the definition of 'lot'?

(#1694) Terri Jeffreys: Yes, and to accept the recommendation for changes to the definition of 'lot'.

(#1700) Steve Clayton: I second the motion.

(#1704) Bob Sund: What do you call an area that is designated as green belt? When you short plat you set aside an area as green belt. You can't call it a lot because then that means you can build on it.

(#1720) Terri Jeffreys: It's open space.

(#1728) Wendy Ervin: They are identified as tax parcels.

(#1732) Allan Borden: It says here it's 'a designated parcel, tract, or area of land established by plat, subdivision or otherwise permitted by law, to be used, developed or built upon as a unit'. In the case of an open space green belt it's not designated for development.

(#1745) Bob Sund: I guess you could call it a tract. Then identify it in the short plat as green belt. As long as it's not referred to as a lot because as soon as you refer to something as a lot by definition here it's buildable.

(#1755) Bob Fink: No, it says 'to be used, developed or built upon as a unit', so it's used as a green belt. I don't think that's excluded because of that definition.

(#1778) Bob Sund: The way I'd read the definition, you have the word 'lot' is a piece of land that you can build on. It doesn't really say you can build on something that you call a tract or an area of land but a lot is an area of land that you can build on.

(#1792) Wendy Ervin: One of the options here says 'to be used' and if it is to be used as a green belt area, then that's a use. It doesn't require that it be a buildable lot to be used.

(#1800) Allan Borden: In this case, a lot could be used for open space, for stormwater drainage, etc.

(#1805) Bob Sund: Okay. Where I'm coming from is, for instance, if a person short plats they can short plat into four buildable lots. If you lay out four buildable lots, would you be able to lay out in addition a nonbuildable lot which is a green belt.

(#1835) Bob Fink: Basically you lay out five individual entities, one of which would not be buildable and we

Planning Advisory Commission Minutes, February 23, 2004

recently introduced the concept of 'out lot'; that's what it's called. In the BLA's you might remember going through here we had the concept of an out lot. An out lot being a lot that's not intended for a residential use but could be used for stormwater or open space. That concept was introduced but has not been fully developed in a way that Bob is talking about where there is a limitation on the number of lots that can be developed by a short plat. You can only develop four lots with a short plat and what Bob has suggested, and would be consistent with our other regulations, would be to allow the creation of a fifth open space area or a fifth stormwater area without having to trigger the review requirements that would be required by a subdivision which is five or more lots. So this semantic argument has some real implications.

(#1905) Wendy Ervin: Is this discussion that one person could draw up and plat out four lots and an out lot and that would be acceptable and another person could draw the same lines and call them all lots and not designate one as an out lot and that would not be acceptable because that's five. Is that what we're saying?

(#1920) Bob Fink: That's right.

(#1922) Wendy Ervin: So we need a definition that allows that out lot to be ...

(#1927) Allan Borden: I don't think we approach that until we change the BLA regulations and that's the time when we'll do that.

(#1932) Bob Sund: My feeling is that if you have this ordinance that limits you to four building sites and you stay with that concept then we should make a provision for this out lot. The implication comes this way because a lot of the areas right now are 5 acre minimums and I guess it is conceivable that a person could lay out some lots of 2 acres and then a fifth nonbuildable lot which is strictly green belt which would bring up those other three lots to 5 acres. You've just included a tract of land that is nonbuildable that you're going to call green belt or whatever.

(#2030) Bob Fink: I'll hand out this to you which is the definition of 'out lot'. It's a definition in Title 16, at this point. You could add this to the DR's as a definition and this is one of the things that we were building towards. When we adopted this definition of out lot it was specifically with regard to BLA's so we could deal with this same issue in doing BLA's.

(#2062) Diane Edgin: Would this be a good place to add it?

(#2064) Bob Fink: I don't think that term is used anywhere in this code. This is the definitions from the DR's and the term out lot isn't used so it wouldn't have any meaning. The issue that Bob is trying to get at is really a Title 16 amendment as well. That's where the regulations for short plats and subdivisions are located and what we need to do when we get to Title 16 is to modify that language to say that a short plat is four lots plus out lots and then out lots are defined as these nondevelopable tracts of land.

(#2100) Bill Dewey: So Allan, will you add that to your list?

(#2102) Allan Borden: Yes, I will.

(#2114) Bill Dewey: So we have a motion and a second. Any further discussion? All in favor? All opposed? Motion passes to accept (b).

(#2170) Allan Borden: On to c). This is basically additional text to clarify. At the end of the DR's it starts with 1.06, Definitions. This proposed addition is just for clarification and it states 'NOTE: The definitions used in the Mason County Development Regulations are those terms defined in Moskowitz, Harvey S. And Lindbloom, Carl G.; The New Illustrated Book of Development Definitions. New Brunswick, NJ, Center for Urban Policy Research, 1993, except as specifically defined in separate county ordinance(s). Basically we have this 'green book' and mostly we use that book and in fact many of the definitions currently in the DR's are derived from them.

(#2234) Bill Dewey: You say 'many'; this implies 'exclusively'.

Planning Advisory Commission Minutes, February 23, 2004

(#2236) Terri Jeffreys: The last sentence says 'except as specifically defined in separate county ordinance(s).

(#2244) Bob Fink: The normal rule is if you don't define the term you go to the dictionary or it's a term of art and you try to figure out what the definition is. What this suggests is the dictionary you look at first to know what the meaning of the word is is this planning dictionary. If you don't find it there then you go to the regular dictionary. Let's say there's a term like 'lot' that's used in a regulation. First, you look in the regulation itself and see if 'lot' is defined. If it's not defined in there then in this case you would go to the planning dictionary and it would define 'lot' as planners use the terms in regulation; it's actually a DR dictionary. If it's not in there then you'd still go back to the dictionary and see how everyone else defines the word.

(#2310) Wendy Ervin: I think this is pretty straight forward. I make a motion to accept this item 1.06 Definitions and the wording as offered.

(#2316) Diane Edgin: I second the motion.

(#2318) Bill Dewey: We have a motion and a second. On discussion, I just have a question. If the county has customized a definition and not used it verbatim as per this document, if we get into any kind of a challenge the way this is worded does someone have to call that dictionary definition to the county's attention and say 'well, you said this is what you follow'.

(#2342) Allan Borden: If it's a term defined in some ordinance then that's where you go.

(#2346) Bill Dewey: So the ordinance supercedes the dictionary?

(#2348) Allan Borden: That's right. Let's say BLA's is not defined in the DR's and you happen to find it in Title 16 on subdivisions and plats then that's the definition.

(#2368) Bill Dewey: I don't think I made my point very clear. There may be times when we have the same definition but there may be times when we use slightly different wording than what's in that book and this is saying that the book is ... I'm just saying do you want it to say that the definitions used in the Mason County DR's have been derived from ...

(#2382) Darren Nienaber: No, I think this is clear.

(#2386) Bill Dewey: Okay. All those in favor? Opposed? Motion passes.

(#2405) Allan Borden: On to (d). Essentially this is a deletion. It's a term that's not used in the DR's so we're deleting it because it's too confusing.

(#2415) Terri Jeffreys: I make a motion we accept staff's recommendation to delete (d).

(#2417) Wendy Ervin: I second the motion.

(#2420) Bill Dewey: We have a motion and a second. Any discussion? All in favor? Opposed? Motion passes.

(#2450) Allan Borden: On to (e), Matrix of Permitted Uses.

(#2548) Wendy Ervin: I have a couple of proposals. I'd like to drop some unnecessary words. In the second sentences 'Those policies'; if you dropped 'were formed with the intention to' so it would read 'Those policies allow property owners and project proponents as much flexibility ...'. I think those are just unnecessary words. Anytime you can cut out unnecessary words it makes it simpler.

(#2605) Diane Edgin: I think when you put 'intention' in there that makes it a little bit vague.

(#2610) Terri Jeffreys: Unless there's an appeal going on in court and the judge is looking for the intention then that would direct him.

Planning Advisory Commission Minutes, February 23, 2004

(#2628) Bill Dewey: What do you think, Darren?

(#2645) Darren Nienaber: What's the harm in keeping it in?

(#2652) Steve Clayton: Is the word 'intention' a hard word for you to defend?

(#2656) Darren Nienaber: Actually, one time we used it with the GMHB and they didn't like it but on the other hand courts refer to legislative intent all the time.

(#2670) Wendy Ervin: But the law itself doesn't say that we intend to do this.

(#2672) Darren Nienaber: Oh, yes it does; all the time.

(#2682) Terri Jeffreys: There's whole sections of intent in the RCW's. So by striking that what you're saying is that these policies do that already and by saying 'intention' it's the intention to do this. If it's found that the policies don't allow that then it's just sitting out there. If it says 'intention' that means that the judge or the GMHB understand the intention of the county whether the law has reflected that or not.

(#2714) Darren Nienaber: That's right.

(#2725) Steve Clayton: Under the revision that Allan has proposed under .020 and in .022 we're saying it isn't a catchall; that there are some exceptions. Previously we'd talked about and it was presented to not allow the administrator to make any judgment calls and you've determined that by adding it in this section you can defend it and this means that the administrator can make some judgment calls, correct?

(#2765) Darren Nienaber: No, we intended to delete, too. The idea was to get rid of that, too. We were going to get rid of .022. We didn't want any wording at all.

(#2796) Steve Clayton: Do you want to review this and bring it back to us next time?

(#2810) Darren Nienaber: I guess we'll have to. The intention was to delete it. I don't know if there's anything that's useful ...

(#2815) Bob Fink: It says 'All uses not listed or provided for by interpretation are prohibited uses'. No where else does it say that permitted uses are the only uses permitted so you need to recapture that language that the matrix shows permitted uses; uses not shown as being prohibited.

(#2850) Steve Clayton: Why don't you come back to us in a few minutes with some revisions on this.

(#2854) Wendy Ervin: I withdraw my motion.

(#2860) Steve Clayton: I recommend we move onto item (f) and let Darren look at this for a while.

(#2885) Allan Borden: Item (f) is in regard to ...

(#2900) Darren Nienaber: Okay, I think I have the proper wording now for (e). We want to delete everything under section .022 except for the last sentence with some modifications 'All uses not listed are prohibited uses'. Move that line up to section .020 so it isn't sitting there by itself.

(#2950) Bob Fink: The only problem with that is you have conditional uses and special uses under the permitted use section.

(#2980) Darren Nienaber: Then you could say 'All uses not listed are permitted as special uses are prohibited'.

(#2995) Bob Fink: Maybe it could say 'All uses not listed as permitted or special uses are prohibited'. The whole section .022 would be deleted and added to the end of .020 would be the sentence 'All uses not listed

Planning Advisory Commission Minutes, February 23, 2004

as permitted uses or special uses or accessory uses are prohibited'.

(#3078) Terri Jeffreys: So this is for UGA's and resource lands?

(#3090) Allan Borden: It applies to areas outside of the UGA.

(#3095) Terri Jeffreys: It says 'the urban or resource land areas in Mason County'.

(#3098) Bob Fink: That's true because .020 specifically applies to the matrix and then just refers to rural lands as being placed in 1.04. The intention of this is that it would apply to the rural lands as well as the lands in the matrix.

(#3130) Terri Jeffreys: And the process for adding a use to the matrix would go through the yearly amendment process? If you've got a use that you didn't even know existed until something got invented, it would go through the yearly amendment process to add that to the matrix?

(#3145) Darren Nienaber: Unless it was something that was an extremely important public purposes. For other uses, yes.

(#3168) Terri Jeffreys: I feel that there isn't a process for streamlining this because you've taken out the administrator's flexibility.

(#3186) Darren Nienaber: It's never been used for that reason. You run a good chance of it being unconstitutionally vague and then you're depriving people of their civil rights.

(#3205) Terri Jeffreys: But you've taken out all flexibility for unthought of businesses and with that the ability for the administrator to have some kind of judgment all that's taken out now and we're stuck what's on or not on the matrix and ...

(#3228) Darren Nienaber: I think last year we had automobile impound yards. That was out of sequence but we wanted to get that going quickly. I think there were a couple of other uses that we hadn't really anticipated that we got on quickly during the regular year process. Instead of doing a similar use analysis which runs substantial bigger risk that's what's been done.

(#3255) Wendy Ervin: I do see what she's saying in that the matrix of permitted uses is a staff list ,, the list is the list. Then you're saying everything that's not on the list is prohibited where .022 said the administrator shall make some determination so I think that we can eliminate the excessive words and maybe accomplish the same thing by saying 'all uses not listed as permitted or designated as special or accessory by the administrator are prohibited'. So then you have an administrative function that is better.

(#3320) Darren Nienaber: That got us in a little bit of trouble in the Belfair billboards case.

(#3332) Wendy Ervin: Who sets a special use or an accessory use? Who determines what those things are?

(#3340) Darren Nienaber: Special uses are specifically provided for elsewhere in our regulations.

(#3342) Wendy Ervin: So they are defined.

(#3345) Terri Jeffreys: So that's the process then to open up a new business that we've never heard of and it's not on the matrix would be to go ask administratively for a special use permit? Or would it have to go through this process?

(#3358) Darren Nienaber: It would have to go through this process ordinarily.

(#3360) Bob Fink: Right, but they wouldn't necessarily have to wait for the annual amendment. It's okay in our ordinance under GMA to amend DR's more than once a year. So although we try to get everything into one packet so it can be considered it's okay to take things out of order when there's a particular urgency for

Planning Advisory Commission Minutes, February 23, 2004

the issue.

(#3388) Terri Jeffreys: If you've got this big backlog of work, it's months of waiting.

(#3398) Bob Sund: It seems to me that somebody should have some discretion because there's a whole area out there that we don't know ... new jobs and new businesses ...

(#3410) Darren Nienaber: And that's exactly why the court would say that it runs into constitutional problems because of that discretion. It's always a balancing act and it's interesting because you're kind of coming to bat for the planning department but actually there's been a number of times recently where I've heard you say there's too much administrative discretion.

(#3440) Bob Sund: I recognize that but I guess I see a value of somebody being able to make a decision rather than go through the whole lengthy process.

(#3455) Mark Drain: Maybe that's what needs to be streamlined is the process. Maybe there's some way you can make things happen without it being a year or two or three to go through a lengthy process.

(#3468) Darren Nienaber: Once we get rid of the rezones this backlog of Belfair and Allyn ... everything has sat in limbo because of all the GMA stuff.

(#3486) Steve Clayton: Would it be practical to do this in reverse because I would think the list of things we don't want in UGA's is relatively small.

(#3495) Wendy Ervin: Seems to me at the last meeting we had that same discussion and I thought that and I was talked out of the position.

(#3510) Bob Fink: The problem is that's not the matrix we have. The matrix we have is a list of uses and it wasn't derived intended to address principally the urban use. It was derived as an alternative way to address the rural lands and so it was fairly specific. The way to address the urban uses is to use broader classes of activity and allow broad classes of activity rather than specifics. You might have retail which covers every kind of store where you're selling things to the public. That's how you deal with it and when you look at the Belfair regulations which are about a month out ... we'll be passing out to you the Belfair draft this meeting for you to take home and start looking at. If you look at those you'll see that all this language doesn't apply to them; that they have a different way of regulating the uses in the different districts. They use much broader categories and so it doesn't matter what kind of clothing you're selling. That's how you get your flexibility. Then if there's some specific thing you want to regulate like sexually oriented business then you write a specific exclusion for that.

(#0025) Steve Clayton: So in this wording in .020 do we want to put in that unless superceded by an urban growth plan such as the City of Shelton, Allyn and Belfair when they come on line?

(#0030) Darren Nienaber: We'd take care of that when they come on line.

(#0035) Bob Fink: I think you're probably better to write this language with these current regulations and not try to anticipate the form that the new land regulations might take and the changes that might be needed here to incorporate those.

(#0050) Bill Dewey: Do we have a motion?

(#0060) Steve Clayton: I make a motion to accept staff's recommendation on page 2 of the revised matrix of permitted uses under section .020 as stands with the additional line that Mr. Fink gave us previously which was 'All uses not listed as permitted, accessory, or special uses are prohibited'. We're also deleting sections .022 and 023.

(#0088) Wendy Ervin: I second the motion.

(#0090) Bill Dewey: We have a motion and a second. Any further discussion? All in favor? Opposed?

Planning Advisory Commission Minutes, February 23, 2004

Motion passes with 5 yes votes and 1 no. Now we'll go on to (f), Church.

(#0116) Allan Borden: In the DR's there are several land uses that are called for in the RR zones; RR2.5, RR5, RR10 and RR20. There's an inconsistent coverage of the church land use. First of all, it's not included in RR2.5; could you imagine no church in Hoodspout or Union or Taylor Towne? So I've added that. Then in each one of the RR zones there's a special provision that allows certain land uses to exceed 3,000 sq ft building sizes and that includes government operated daycare centers, essential public facilities, community centers and schools but it doesn't include churches. So the proposal is to add churches to the special provision for each one of the RR zones that allows a church to exceed the building size of 3,000 sq ft as long as it's approved through a special use permit.

(#0175) Wendy Ervin: For consistency, you have daycare centers (plural), public facilities (plural), church (singular); I think you should put an 's' on 'church' to make it 'churches'.

(#0190) Steve Clayton: Some of the eastside counties they talk about changing rural characters by adding mega churches. What's the thought on that?

(#0192) Diane Edgin: I think that would be addressed under special use permits and then I think if there's opposition it would come forth then. I have wondered this, too, because some of the churches now a days are 10,000 or 20,000 sf and they are a big issue in some of the rural areas because of the traffic.

(#0220) Steve Clayton: For the Hearing Examiner to deny a special use for a mega church, what does he need? If they apply for a mega church we don't have any limitations. He wouldn't have any grounds to deny it even if he had a significant number of public show up?

(#0240) Darren Nienaber: He'd make sure the special use criteria had consistency with the Comp Plan policies. A mega church wouldn't be consistent with Mason County rural character.

(#0248) Mark Drain: It might be if it were properly buffered.

(#0250) Darren Nienaber: Well, that's true. They could also mitigate transportation. It might be okay.

(#0256) Bob Sund: I would think that you'd have to look to what reality is going to happen. We're always going to have churches in our community and our churches are growing as our town grows and we have to make allowances for that church to go to a piece of ground that will house their church as well as the parking rather than to try to find something in the city.

(#0272) Steve Clayton: The premise of the GMA is that if you have large users they put out a lot effluent and they need a lot of services and that's what we have UGA's for.

(#0280) Darren Nienaber: There's a case on that actually where the court of appeals said that a 40,000 sf church in King County did not violate the GMA in a rural area so that's case law. The criteria referred to not only the Comp Plan but also said that the project had to be consistent with the GMA itself so when the court was reviewing that case and were looking at their special use criteria their criteria referred back to the GMA so the court itself looked to see if it was consistent with the GMA and they said that was fine. That's a huge church and I don't think that would be allowed in the Mason County area because that's not consistent with our rural development pattern in general.

(#0312) Allan Borden: We have a floor area ratio that might come into play depending on the size of the property. There are standard criteria for review of special use permits and one of them is provision of public services.

(#0342) Diane Edgin: How does a church or any religious organization in building in the rural area ... are they required to meet fire code?

(#0342) Darren Nienaber: Oh, yes.

(#0348) Wendy Ervin: They have to meet the same criteria for a building permit as anybody else, don't they?

Planning Advisory Commission Minutes, February 23, 2004

(#0355) Allan Borden: Yes.

(#0357) Wendy Ervin: So if their request to build a church that is too large for the area and doesn't meet the code regulations they'd just have to build a smaller church so I don't think here in the uses permitted is the place to address the size of the church.

(#0368) Bob Sund: I think the word 'churches' could be included in those things as long as you're naming other things so you could just as well name churches.

(#0378) Terri Jeffreys: Is that a motion?

(#0382) Bob Sund: Yes, that's a motion.

(#0384) Diane Edgin: I second the motion.

(#0386) Bill Dewey: We have a motion and a second to approve (f) with the exception of making it plural. Any further discussion? All in favor? Opposed? Motion passes. On to (g), Air Transportation.

(#0405) Allan Borden: The intent of this DR is to begin to match up when we update the Comp Plan for Capital Facilities we'll be including air transportation facilities.

(#0432) Steve Clayton: Allan, I sent you an e-mail asking about float planes and using the canal as a landing strip. We have land uses in some spots and we also talk about landing strips and helispots; a landing strip could be the canal ...

(#0442) Allan Borden: We're not regulating private airplanes.

(#0446) Steve Clayton: What about potential float plane tours from float planes out in the canal? That's an industry that could happen.

(#0450) Allan Borden: They'd have to be affiliated with a commercial shoreline lot and they'd have to be commercial.

(#0455) Bob Sund: Steve, I think what you may be saying is if Alderbrook puts in some airplanes that might tour around?

(#0460) Steve Clayton: That's right.

(#0480) Bob Sund: Allan, when you say 'airports and heliports' is that public or private? There is a private airstrip above Lilliwaup and there is another private airstrip out near Port Townsend.

(#0505) Steve Clayton: Under 'D', you're saying it can't be used for commercial or industrial in the rural. Are RAC's and Hamlet's considered rural? We're saying we couldn't have a seaplane operation in Union; we couldn't have a helicopter logging application in Tahuya?

(#0520) Diane Edgin: We've got seaplanes coming in all the time out at Spencer. There's also the possibility at some point in time that we will have a land development that has their own airstrip for the residents.

(#0555) Bob Sund: That's exactly what that little airstrip is up above Lilliwaup. It has five acre lots bordering it for sale.

(#0562) Diane Edgin: There's more private planes per capita in this state than any other state in the union.

(#0580) Bill Dewey: So the intent bringing this before us is to try to restrict airport and heliport development to areas that are appropriate but what I'm hearing is a lot of discussion about where those are appropriate and where those are not.

Planning Advisory Commission Minutes, February 23, 2004

(#0588) Wendy Ervin: Right, and the fact that there are already small airstrips for ultralites and other larger planes all over the place.

(#0595) Bob Fink: This was never intended to prevent accessory use; in other words, someone with a house or development built around an airstrip for recreational use. What this was intended to control was the commercial use of the airport, for instance, running a tour service out of a landing strip. It was the commercial activity that was intended to be regulated with more intensive use of the land. It wasn't intended to stop someone with a plane from having a flat piece of land they would use as a landing strip for their own use.

(#0628) Terri Jeffreys: Wouldn't that be considered a RT use?

(#0635) Bob Fink: This is for commercial or industrial uses and are not allowed in the rural area. You could consider something like that in the RT with a special use permit. Then someone wanting to start something like that would either apply in a RT site or apply to rezone to RT. You could allow it anywhere with a special use permit but I think you'd probably be better off as a commercial of some impact to require rezoning to RT and then the impact to the area could be fully assessed.

(#0665) Diane Edgin: When you talk about air transportation and I brought up private developments. I've lived around two or three of these things and you just don't go putting them in now a days for a dozen units. They've got them for maybe a hundred people with a hundred planes and with that there are fueling facilities and mechanics and hangers. I think that considering our water quality issues that somewhere along those lines we're going to have to address this stuff.

(#0688) Steve Clayton: I think Bob Fink's idea of at least giving an outlet to put it in as a special use under the RT is a good solution because it allows that industry in through a process.

(#0698) Bill Dewey: How do we deal with forestry and helicopter logging?

(#0702) Mark Drain: That's resource based. They could have a sawmill there or anything. Why can't they use a helicopter?

(#0705) Bob Fink: It doesn't regulate the logging at all. There's a difference between a heliport and a field. If you're doing logging in the area and you land in a nearby field during a month long logging operation that doesn't make it a heliport.

(#0722) Bob Sund: What is the definition of heliport? Up on the bridge across the Cushman causeway there's a circle up there for a helicopter to land. Is that a heliport?

(#0732) Bob Fink: That's a helispot. The definition is in the planning dictionary.

(#0774) Steve Clayton: So we need some sort of provisions to allow these sort of applications in RT and RNR under a special use I think might be the direction that we'd be going. Those are the two applications we're talking about.

(#0786) Bill Dewey: The housing development with a landing strip wouldn't fall under this because it's not commercial.

(#0792) Wendy Ervin: There are communities developed around a golf course or an airport or riding stables and these are special interest communities.

(#0800) Diane Edgin: The potential for having commercial use will be there depending on the size of the operation.

(#0805) Bill Dewey: So if you had a golf course or horseback riding, would it be RT?

(#0812) Wendy Ervin: No, because if you've got a permanent home on the edge of a golf course because you buy that home because your interest is golfing doesn't make it a tourist thing. Housing developments are

Planning Advisory Commission Minutes, February 23, 2004

being developed around those special interests and they're not a tourist thing.

(#0825) Terri Jeffreys: Are you saying that this is going to restrict that? And explain to me how that will restrict that.

(#0830) Wendy Ervin: This is saying it has to be in an urban area if you're going to have something commercial. If you have a housing development with an airport in the middle that's not tourist.

(#0840) Terri Jeffreys: How does this restrict that?

(#0842) Wendy Ervin: If you cannot have it in a rural area and it has to be in an urban area then you've got a problem.

(#0845) Terri Jeffreys: If it's a commercial use.

(#0850) Wendy Ervin: I'm not sure if this is for commercial use or not. If it's the center of a housing development I don't know.

(#0855) Steve Clayton: I'm reading it the way you are; is that the way you intended it, Allan, for private personal use this does not apply?

(#0860) Allan Borden: That is correct. So if you had a fly-in community it wouldn't apply.

(#0865) Bob Sund: If a person lived in the rural area he would be able to fly his own helicopter in or if he had the land, put in his own airfield?

(#0870) Bill Dewey: If someone in that housing development wanted to establish a charter business then that would be commercial but if someone could have a charter business in Seattle and fly people to that strip?

(#0884) Diane Edgin: I think if you got into the FAA regulations that you might find some definitions for that kind of community. You're talking federal and I think there are some superceding rules about existing things.

(#0905) Bill Dewey: What is the reason this is in front of us?

(#0910) Allan Borden: Just positioning ourselves for the future on capital facilities transportation element.

(#0915) Bill Dewey: I don't think we're at a point of having action on it tonight. I am hearing some desire to do something with it and providing the RT and RNR and commercial if those could be addressed and incorporated into this that we might be at a point then.

(#0928) Allan Borden: It would be easy to add a phrase at the end of (D) that says except in RT and RNR.

(#0932) Steve Clayton: As Mr. Fink described it would be best done in those zones with a special use permit so rather than applying here or you could put in (E) under special use permit in RT and RNR and then just update the special use applications in those zones.

(#0945) Bob Sund: Under (D) it says ' Airplane landing strips and helispots used for commercial or industrial land uses are not allowed in rural areas'. I wonder if we should restrict industrial land uses ... a helicopter or landing strip may be pretty important to an industrial entity in Mason County that we may want to promote.

(#0968) Diane Edgin: I think that would depend on whether we have ... don't we have a provision for a big type of campus that may want to come into the county?

(#0995) Bob Fink: Major industrial development.

(#0998) Bob Sund: My understanding was Grays Harbor adopted that nuclear site down there and made it into an industrial park but there isn't anywhere in Mason County we could do that, is there Bob?

Planning Advisory Commission Minutes, February 23, 2004

(#1005) Bob Fink: There's a couple of answers to that. One is that Grays Harbor isn't under the GMA. The other is that the GMA does allow for, under very narrowly defined conditions, the location of industrial development in the rural area. Large industrial development. We allow smaller industrial or natural resource based industrial in the rural area. They have a provision in the GMA that under certain circumstances allows large industrial parks or a single large industrial business. That's a wholly different issue. One of the things is that there would have to be conditions met including adopting specific language that does certain things in the county Comp Plan. After you do these things then you can set up a procedure to approve these individual sites. It's beyond the scope of what we're doing here. If you think helicopters ought to be allowed in RI as well as RNR that's probably something we could address.

(#1065) Steve Clayton: We can change (D) and instead of saying 'are not allowed in rural areas' to say 'may be allowed in RT and RNR via a special use permit'. Do you want to put in RI, too? What do you think, Bob?

(#1074) Bob Fink: RI is typically anything but the RNR that's in the rural area so I think it's appropriate.

(#1082) Bill Dewey: I was going to suggest that same language. You probably also need to leave on there that they're not allowed in rural areas.

(#1096) Mark Drain: So did you include RNR lands so that they need a special use permit for a helispot? We've had ground that we've cleared for helicopters that we've maintained for years for spraying. I imagine Simpson has spots all around, too.

(#1105) Bob Sund: I'm thinking that the future of logging is going to be that rather than roads and bulldozers and skidders, etc. You wouldn't want to restrict that.

(#1135) Wendy Ervin: Under the third item it says 'Proposals to expand airport operation land uses or to develop new land uses in the airspace and approach corridors shall be reviewed for compliance with subarea planning development standards and with the policies of port comprehensive planning'. Doesn't that all have to go through the FAA first?

(#1150) Diane Edgin: I think it does. When you've got an airport that is already there like our current airport on the edge of Shelton ...

(#1156) Allan Borden: It also has to go through the city or the county.

(#1160) Wendy Ervin: So it jumps through the FAA and then through all of the local planning.

(#1175) Bill Dewey: Let's focus on fixing (D). 'Airplane landing strips and helispots used for commercial or industrial land uses may be allowed in RNR, RT and RI ...

(#1180) Bob Sund: Don't you want to include 'with a special use permit'?

(#1185) Steve Clayton: Well, as Mark was saying is a special use permit going to be overly burdensome for ...

(#1188) Bob Sund: All you have to do is include an item (E) and add Mark's concern in there.

(#1190) Mark Drain: I don't understand what concern it is of anybody's whether they use a helicopter commercially or industrially or whatever.

(#1205) Bob Sund: You could just say 'aircraft used in connection with RI activities are exempt from this ordinance'.

(#1208) Steve Clayton: The only question is if you get one next to your house and you live in a rural area you're going to be pretty unhappy if it didn't go through any process.

(#1215) Bob Sund: What if somebody buys a house out there on timberlands and they come in and log off the

Planning Advisory Commission Minutes, February 23, 2004

timberlands and they say 'I bought my house when those timberlands were there and I want those timberlands'. They buy next to a timberland operation they're going to have to live with the logging whether the logging is with truck or helicopter.

(#1228) Steve Clayton: The question is what happens when you move in and buy this parcel and build a house and they log the parcel next to you and start to use it as a helipad five days a week?

(#1242) Wendy Ervin: Is the difference between a heliport and a helispot that a helispot is a temporary thing and a heliport is a permanent parking area?

(#1254) Bob Fink: A helispot is a heliport but without auxiliary facilities such as parking, waiting room, fueling and maintenance equipment.

(#1262) Wendy Ervin: So it's not going to be the permanent resting place of that helicopter.

(#1266) Bob Fink: It is intended to be a permanent site. It's just it doesn't have a waiting room and parking for the people going on a flight; that's a helispot. A heliport is defined as an area either at ground level or elevated on a structure licensed by the federal government or an appropriate state agency and approved for loading, landing and take off of helicopters and including auxiliary facilities such as parking, waiting room, fueling and maintenance equipment. It actually should be 'helistop' and not 'helispot'.

(#1322) Steve Clayton: Mark is talking about a temporary use; short term use where they wouldn't have to do a special use permit.

(#1325) Bob Sund: In forest practice we don't have any say about it but I think it would be well that we so state that so that ... if they're using helicopters in their timber practice the county has no regulation over that do they, Bob?

(#1350) Bob Fink: I don't really know the answer to that. The forest practices, if there's a DNR permit, the forest practices covered under that permit are exempt from county regulations. Where the helicopter might park in between harvests that I don't know but I doubt that would cover that activity. It would cover probably the yard where the helicopter was flying the logs to but it wouldn't necessarily cover a landing site they had where they refueled. You might consider, as you suggested, a separate provision that just for the moment clearly exempts helicopter operations related to ongoing logging operations. If it becomes an issue in some way at some later time it could be addressed.

(#1386) Bob Sund: Mark can tell you that when he fills out his forest application they want to know how you're going to do it. With a skidder or whatever. They don't say where he parks his bulldozer or where he's going to have to go to refill it with fuel.

(#1402) Bob Fink: That's what I'm saying. The helicopter can easily leave the site and it can go anywhere where refueling facilities can be located. That operation may be some place conveniently close but well away from the logging operation.

(#1415) Diane Edgin: I'm not really that familiar with the Forest Practices Act. Let's take Harstine; that is not long term commercial and I know there's a vast difference between the two uses. So would the forest practices apply to ...

(#1425) Bob Sund: Absolutely.

(#1427) Diane Edgin: So we're going to run into the same type of ...

(#1428) Bob Sund: If you have a landowner on Harstine Island that has ten acres and it's forested and he decided to log that ten acres he applies to the DNR for a logging permit.

(#1435) Diane Edgin: I knew that. Under the forest practices act this business about helicopters and helispots ...

Planning Advisory Commission Minutes, February 23, 2004

(#1440) Mark Drain: Either spraying or logging. It's usually temporary because the forest practice application is only good for two years unless you go through a special process.

(#1464) Bob Fink: You don't tell them where you're parking the helicopter when you're not in operation, do you?

(#1466) Mark Drain: You do tell them if you're spraying where you're going to mix chemicals or where the plane will fly from. I haven't done a helicopter logging thing but I'm sure ... any logging operation you note on the map you note your landings and road system. I'm sure the same would be for the landing for a helicopter.

(#1482) Diane Edgin: My whole feeling is I don't want to restrict an industrial or commercial business use of a helicopter in the rural area because of the traffic concerns we have in this state. If they want to go to the expense and trouble of being able to operate one ...

(#1505) Wendy Ervin: I think we should try and avoid forcing people into tons of paperwork with special this and special that. If we want to allow the use of helicopters then it should not be through some special permit system; it should just be allowed.

(#1520) Mark Drain: If it's a resource lands based use.

(#1524) Bill Dewey: Are we close to language here?

(#1526) Steve Clayton: So we're talking about changing this in the way of saying that 'they may be allowed in RI and RT via a special use permit and they are allowed in the RNR area'. Something along that line.

(#1542) Bob Fink: Yes, that would work.

(#1550) Bill Dewey: So it would say 'Airplane landing strips and helistops used for commercial or industrial land uses may be allowed with a special use permit in RT and RI and are allowed in RNR'.

(#1570) Bob Fink: Also, 'But are not otherwise allowed in rural areas'.

(#1572) Bill Dewey: Right.

(#1574) Bob Fink: Which wouldn't include the long term commercial forest land or ag land.

(#1578) Steve Clayton: Right. They couldn't be permanently placed there.

(#1580) Bob Fink: It just wouldn't address them in the long term forest land or ag land at all.

(#1595) Bill Dewey: Do you think we should add 'on a temporary basis in RNR'?

(#1600) Mark Drain: How do you define temporary?

(#1605) Steve Clayton: Do we want to put in the ag land and long term commercial forest lands?

(#1608) Bob Fink: This regulation, as it was written, wouldn't address ... I was just being clear. The long term commercial forest land wasn't addressed here and neither was the ARL which are not rural areas. So they were never proposed for regulation and this regulation that you're proposing as modified still wouldn't regulation those activities on those lands.

(#1630) Bob Sund: Do we want to make a statement that says that this regulation does not apply to RNR, ARL and long term forest?

(#1635) Diane Edgin: I don't think that's really necessary.

(#1640) Bob Sund: Maybe not necessary but somebody may come in and complain because Mark's doing ...

Planning Advisory Commission Minutes, February 23, 2004

(#1642) Allan Borden: We'd go to the RO and not the DR's.

(#1648) Bill Dewey: So at this point we've proposed modifying (D) to read 'Airplane landing strips and helistops used for commercial or industrial land uses may be allowed with a special use permit in RT and RI and are allowed in RNR zone but are not otherwise allowed in the rural area'. Is that a motion, Steve?

(#1680) Steve Clayton: Yes.

(#1682) Diane Edgin: I second the motion.

(#1686) Terri Jeffreys: Do we want to include RTC?

(#1692) PAC: No.

(#1694) Allan Borden: Did you want to put in an (E)?

(#1696) Bob Sund: It's included in (D).

(#1698) Bill Dewey: So we have a motion and a second. Any further discussion? I guess I would just offer as one final point of discussion and that is as I was reading this and thinking about airport development in several major metropolitan areas around the county they actually have opted to take them and place them out in the rural area because they're so obnoxious and we're saying we're going to put them in the UGA.

(#1730) Diane Edgin: I think this is where we're hitting two philosophies head on; one is we're trying to preserve this rural character at the same time that the rural area is where growth is going to be forced to go eventually.

(#1745) Bob Sund: They already ran into a snafu out there with our airport when they built the schools.

(#1750) Wendy Ervin: You have a situation where you're putting your airport into an urban area and that then governs the heights of your buildings ... the whole point of an urban area is let's squash everybody into a smaller area and have it stacked higher but you put in an airport and that cuts off the lid that you can have. So you have a conflict with having an airport in an urban area. If you put that airport in a rural area you've got plenty of fly zones.

(#1788) Allan Borden: What you're looking at is the current situation. An airport that's been there as a naval airport and the school district buying a lot of land that was inexpensive at the time and putting it there.

(#1800) Wendy Ervin: I was just making a generalization. Any time you have a ...

(#1805) Allan Borden: It may not always be that way; the port may move farther west or they may decide there's a flat area off of Mason Lake Road that's better for an airport.

(#1812) Bill Dewey: If you look at future airport development it takes a lot of land to do it; you're not going to want to buy up very expensive UGA land to do that.

(#1825) Bob Fink: You can create new urban areas or you can expand the existing urban areas. Look at Sea-Tac. That is not a rural use. If you're talking about those large airports they attract and need commercial and industrial development in their vicinity. All kinds of shipping and warehousing and other activities; not residential development. So they are appropriate in urban areas whether they're urban now or urban as they get established.

(#1880) Bill Dewey: Any further discussion on this? All in favor? Opposed? Motion passes.

Break in meeting.

(#1970) Bob Fink: I've been talking with the BOCC about the rezone requests and they're reviewing them and

Planning Advisory Commission Minutes, February 23, 2004

are in the middle of public hearings on them. They wanted me to let you know that they're very happy with the work you're doing and they wanted to let you know that they think you're doing a good job. Wes was going to come here today himself to say that but unfortunately he couldn't be here today. They just wanted you to know that your work here is not unnoticed or unrecognized.

(#2005) Darren Nienaber: Wes made a big point to me on that also. He's been reading through all the minutes and he saw all the discussion and he really appreciated all the discussion because he helps him understand things better.

(#2015) Bill Dewey: It's nice to have that feedback. Thanks, Bob. So we're on to (h) RV's.

(#2030) Allan Borden: The topic has to do with restricting off-road vehicle parks in the county, limiting location and setting operational standards in the DR's. Right now there are no implementing standards to review or regulate these land uses to guide where they should be in the county or control potential impacts from noise, dust or traffic. The proposed regulations require the need for a special use permit for proposed motorized outdoor recreational land uses that are zoned RT or RTC. During this review additional information on grading, stormwater, services and traffic will become part of the review of the proposed land use. We're in the DR's under RT and under the section of uses there's a new third item called Special Permit Required Uses. It lists motorized commercial outdoor recreation; and rifle range. Then an additional special provision standard ... that (3) under RV parks should be the letter C under special provisions. 'Additional information for commercial outdoor recreation shall be provided: grading proposed, stormwater and erosion control plans, support services provided, and traffic studies from activities proposed'. Basically it calls for a special use permit and additional review standards under that special use permit for a proposed outdoor commercial recreation activity that involves motorized activities. Basically the same thing is provided for in RTC.

(#2148) Bill Dewey: I'm wondering also under what will be now C which was 3 do you want to add the word 'motorized' in front of 'commercial outdoor recreation' to be consistent?

(#2160) Allan Borden: Yes, you're right.

(#2162) Bill Dewey: I'm also wondering if that needed a definition? 'Motorized commercial outdoor recreation'?

(#2178) Mark Drain: What is it, Allan?

(#2180) Allan Borden: Basically it's off-road vehicle parks that would involve motorcycles, ATV's, 4-wheel drive vehicles.

(#2190) Bob Fink: It would also include go carts. It doesn't just have to be off-road vehicles.

(#2200) Steve Clayton: Would this include having a dock on the canal or a lake where you'd rent speed boats or jet skis.

(#2212) Allan Borden: That would probably be reviewed by a shoreline permit.

(#2222) Bob Fink: We didn't zone the water. The water isn't zoned anything so none of these regulations would apply to the water.

(#2232) Terri Jeffreys: Allan, what are support services?

(#2238) Allan Borden: It would be health services or first aid, refreshments, food; the idea is if they don't provide the services it's probably going to be less likely to be as impacting in the area that most people would be staying in one place. They might have a parking area and if it doesn't have food and beverages they're not likely to hang around there.

(#2290) Bill Dewey: Should it maybe read 'Your additional information for motorized commercial outdoor recreation shall be provided, including but not limited to,'... Then have the list.

Planning Advisory Commission Minutes, February 23, 2004

(#2308) Diane Edgin: We can't use strictly 'motorized' here because there's horses ...

(#2312) Bob Fink: Let me explain where this came from. We received a couple of complaints about off-road vehicles and motorcycles, principally, running around in the rural area making all kinds of racket and we investigated and found that we couldn't regulate it and it wasn't a commercial activity but that brought to our attention that as a commercial activity as something that went on daily to a great degree that this would be extremely incompatible with residential use in the rural area. So we added rifle ranges as another outdoor activity that would be intrusive to anyone wanting the peace and quiet of their domicile. That's where it came from. It's anticipating that someone might want to start one of these. We had it motorized in general because we were controlling those. We weren't necessarily trying to control riding areas and trails; recreational activities that wouldn't have impacts, at least none that we anticipate, to the neighboring activities.

(#2380) Diane Edgin: I've yet to see it but I understand that some sort of a motorcycle tract has been built out on Harstine and it's commercial and they were able to get a permit for their activity but I'm not sure they actually live on the property. I've had a lot of people complain to me about it. It's one of those things that I would vote for. Where are we on grandfathering?

(#2426) Bill Dewey: Is it appropriate to add sanitary facilities to the list?

(#2432) Allan Borden: Maybe I should spell out support services better. Support services would include sanitation, food, water, etc.

(#2444) Bill Dewey: One of the issues we're having in some of our growing areas is we're getting a lot of increase in recreational uses with inadequate sanitary facilities.

(#2450) Bob Fink: We can explicitly put in sanitary and other support facilities.

(#2455) Steve Clayton: I originally sent you an e-mail saying it wasn't supporting it in an RTC and then I thought about my boy scout days and we had rifle ranges there and we rode horses but now it's probably motorcycles so it seems like this would be an appropriate way for the boy scout camps to go.

(#2480) Bill Dewey: So are we ready for a motion on this?

(#2485) Terri Jeffreys: I move we accept staff's recommendations for letter (h) with the following changes: In section 1.04.607 change number 3 to letter C, add 'motorized' in front of the word 'commercial', and make identical changes in 1.04.617.

(#2530) Mark Drain: I second the motion.

(#2532) Bill Dewey: We have a motion and a second. Any further discussion?

(#2534) Allan Borden: Did you want to add after 'shall be provided' 'including but not limited to'?

(#2550) Bill Dewey: Thank you, Allan. We'll consider that a friendly amendment with a second. Any other discussion?

(#2560) Terri Jeffreys: Would we also want to take this opportunity to add under special use or accessory use commercial airplane tourist activities?

(#2580) Steve Clayton: Do we want to approve what we've already got and then we'll revisit it?

(#2584) Bill Dewey: Any further discussion? All in favor? Opposed? Motion passes.

(#2590) Steve Clayton: As Terri is talking about when we did the air transportation previously we need to revise special permit required uses for RT, RI, etc.?

(#2605) Bob Fink: Why don't you let us come back on the 15th because we haven't advertised that yet.

Planning Advisory Commission Minutes, February 23, 2004

(#2670) Bill Dewey: Let's go on to (j).

(#2680) Allan Borden: I'm trying to remember on (j). Did we decide to withdraw that?

(#2682) Bob Fink: Yes, I think we want to withdraw this. They won't issue building permits for the recreational vehicles and basically we put them in a catch-22. We say you have to get a building permit but we won't issue you one. We don't really have a recommendation on time limits for recreational use of recreational vehicles on private property.

(#2758) Darren Nienaber: This is an issue I think that would be an interest for all of you in the sense that people are living in an RV on a lot and dumping waste out in the woods. There's a lot of people that do it and the county has tried to work on this a number of times and hasn't come up with a good answer yet.

(#2800) Bob Fink: There is no consensus in the county among the different departments as to what appropriate time limits and restrictions would be.

(#2808) Diane Edgin: I would say based on most RV's on two people inside that ten days is about the max that you're going to be able to operate your holding tanks without dumping them. I do feel that there aren't many facilities within the county that people who have RV's that can go to in order to dump.

(#2855) Darren Nienaber: That may be why they're dumping in the ditch. I guess this will wait for another day and greater research. It's something we've been talking about for a year and a half or two years.

(#2865) Allan Borden: Actually the major issue is environmental health. Environmental health hasn't really stepped forward and said there's a big problem ... they are contributing to the conversation but they haven't lead the contingency.

(#2965) Bill Dewey: What is the controversy? Why is the language that was recommended here not appropriate?

(#2970) Bob Fink: The language here that was drafted says you have to get a building permit after 180 days or remove it but we don't issue you a building permit.

(#2982) Bill Dewey: Why not?

(#2984) Bob Fink: Essentially it's not appropriate for them to issue a building permit on an RV.

(#3000) Wendy Ervin: On something that's portable.

(#3000) Bill Dewey: But they're saying here that a building permit is required if it's tied down, placed on blocks, or put on a foundation; or tires or tow hitch are removed, or remain on site for greater than 180 days. It's become a building at that point.

(#3018) Darren Nienaber: I think they talked about the fact that it wouldn't meet code.

(#3030) Bob Fink: It's not designed for tie downs. If you go to manufactured housing, they're designed for tying down. RV's are not designed for tie downs; they don't have standardized techniques for stabilizing them and tying them down to the ground so there's no standard to compare them to. So there would be no way to evaluate them in a meaningful fashion.

(#3050) Diane Edgin: You were saying that this water quality issue that they're in the process of rewriting the regulations for that on a state level and that's supposed to be due out in '05 and I think that is something that's going to have to come from them because we are a recreational state with huge water issues. There's no category at our level that we can make it fit.

(#3075) Bill Dewey: The state on-site sewage regulations aren't going to address those. There's got to be ways that other counties have addressed this.

Planning Advisory Commission Minutes, February 23, 2004

(#3088) Bob Fink: There's another factor, too, that the regulations we did on parking in the rural area ... how many vehicles can you have on undeveloped land will kick in in a few months and one of the major issues of why the health department gets concerned isn't often with a single RV but with a whole community of RV's and often other junk vehicles and often this is associated with other criminal activity. It's illegal to dump trash on the ground. A lot of the activities we're concerned about are already illegal under other codes but this gives them another handle on which to do it and by having a limit to the number of vehicles that can stay on the property already that keeps these small communities from growing where they can have a significant impact to the property. So that also helps address and alleviate the worst cases of this that was happening.

(#3145) Wendy Ervin: This does not make clear that you are primarily discussing RV's that are being lived in. It should be a completely separate thing. If somebody is parking their RV on their lot that shouldn't be a problem. If they're not living in it ...

(#3168) Bob Fink: That's exactly right and that's another issue that's almost impossible to determine. When is someone living there? What days do we go and observe them? Do we see how much time they spend in the RV every day? Do they just come in on the weekends? It's a difficult thing to regulate and it's a difficult thing to enforce because of it's inherent nature. That's why I see Allan thought he had a hook to address the issue and that's why he proposed this but when we realized that that hook didn't catch anything ...

(#3240) Bill Dewey: Okay, so we're just going to withdraw this one but acknowledge that it's an important issue and something the county needs to look into solutions for still. Withdrawing it doesn't mean it's not a problem.

(#3295) Allan Borden: Next we'll move on to (I) Use of Modified Structures. It's a new section under chapter 1.05, Structures and Uses. There's no process to address when structures that must meet certain review standards are modified to avoid such review standards; for example, a boat lift, dock or moorage altered with wheels. The draft provision bases the review of structures on the function and use of the structure whether it is in a fixed location or on a mobile frame. For example, a boat lift whether mounted on a trailer frame with or without wheels for movement, is reviewed as a boat lift. A boathouse on land or attached to a dock is reviewed as a boathouse. The actual regulation reads 'Structures which are assembled or placed for a certain purpose or use shall be reviewed under the standards of that use (for example, boathouse, dock, boat lift, shed, or deck), whether secured in a fixed location or on a mobile framework'. This arose from the fact that people were, in fact, doing this. They had a boat lift mounted on a trailer and they took the wheels off and pushed the trailer into the water and said it was a trailer. Well, it was serving as a boat lift.

(#3405) Bob Fink: They had a boat lift as a structure and they had put it within the setback for structures. People can put boat lifts in the water but you can't leave a boat lift, which is a structure, within the setback in the water. There was an enforcement case and what they did was at some point asked a planner whether we would require a boat trailer to be moved out of the setback and the answer was that we don't regulate that. So they put non functioning wheels on their boat lift and said it was a trailer and you can't enforce against it because you can't enforce against trailers.

(#3465) Terri Jeffreys: Was it because they couldn't get a permit to put a boat lift in the water?

(#3470) Bob Fink: They couldn't get a variance to put the boat lift in there. Allan, what kind of permit do they need for a boat lift now?

(#3486) Allan Borden: If it's in the SMA you need a conditional use permit.

(#3498) Bob Fink: It's considered part of the dock and you don't need a conditional use permit but the size of it is regulated consistent with the regulations we have on the docks. But that still doesn't allow you to put it within the setback from the adjoining property. That was the issue in this case in that even though they didn't need a permit because it was under \$5,000 and they didn't need a substantial development permit. In this case these people wanted it in the setback and they were trying to get away from the regulation that says you can't put structures in the setback by welding wheels to the sides of it and saying it was a trailer. This was appealed to the Shorelines Management Hearings Board ...

Planning Advisory Commission Minutes, February 23, 2004

(#3570) Darren Nienaber: And it's in Thurston County Superior Court right now.

(#3576) Terri Jeffreys: You're talking about the boundary setbacks not the shoreline setbacks.

(#3580) Bob Fink: Right. The property line setbacks. The Hearing Examiner supported the concept that the use ... in other words, if it was intended to be used as fixed, then it's a fixed boat lift. It was never placed there and intended to be used as a boat trailer so she supported our interpretation that it restricted it and this regulation is intended to clarify that that if someone drives a bus out into the water and starts using it as a dock then we're going to regulate it as a dock; we're not going to regulate it as a bus.

(#0002) Darren Nienaber: I have a comment, Bob. This is an amendment to the DR's and that case actually was a SMP case.

(#0004) Bob Fink: Isn't it in Title 15?

(#0006) Darren Nienaber: It's in Title 1.

(#0010) Bob Fink: Well, it's a difficult process to amend the SMP and we haven't gotten to that yet. At the same time the principle needs to be generally applied. I don't know if you can go with Title 15. I don't think it's procedural; I think it's substantive so it probably belongs in the DR's and as an amendment to the SMP in the future.

(#0038) Wendy Ervin: I make a motion to accept the recommendation of staff inserting 1.05.006, Review of Structures, as written.

(#0045) Diane Edgin: I second the motion.

(#0048) Bill Dewey: We have a motion and a second. Any further discussion? All in favor? Opposed? Motion passes. Next on to r).

(#0060) Allan Borden: The intent of this was to move enforcement procedures to Title 15 that have been included in the RO.

(#0075) Bob Fink: There's existing language in Title 15 to do enforcement and there may be differences in the exact procedures but it does replace ... they're not just moved. The process has been changed. That will give us more uniform enforcement processes.

(#0096) Bill Dewey: Our legal advisor is saying this is a good idea.

(#0104) Allan Borden: The current RO 17.01.200, Enforcement, includes a section on Restoration. Currently, 17.01.200 has Restoration and it's been renumbered to .210 and the current Severability has been renumbered to .220.

(#0170) Wendy Ervin: You've also made some additions under Restoration under 1 and 2.

(#0180) Allan Borden: Right. Before you vote we can bring up those changes as well. All they are are added statements clarifying the two kinds of site plans that should be provided in a proposed restoration.

(#0190) Steve Clayton: As long as we're talking about that on page 16 under .210, Restoration, it talks about 'up to three years from completion of restoration'. I would think for Darren's benefit if we deleted the 'up to' and just set it at a period of three years it would be easier to enforce rather than giving any flexibility there.

(#0208) Darren Nienaber: I think it means the same thing.

(#0216) Steve Clayton: 'Up to' to me infers depending on what the Hearing Examiner rules on it he could say one month or he could say one year or two years. If we delete the words 'up to' then it is three years and it's not a variable.

Planning Advisory Commission Minutes, February 23, 2004

(#0226) Darren Nienaber: I think it's okay; I don't think it's a problem but if you want to change it that's fine.

(#0230) Steve Clayton: By deleting those words we take out any question of it; by leaving them in ...

(#0232) Darren Nienaber: I don't think there's any question.

(#0235) Steve Clayton: There was the same sort of thing on page 21 under Application. Somebody that was in violation and we're saying that you can't develop on it for a period of up to ten years. If we just say for a period of ten years.

(#0275) Wendy Ervin: By altering those words you are eliminating a possibility of a permit approval before ten years. You're setting a limit that is not necessarily intended.

(#0290) Darren Nienaber: It still says 'may, upon the county's request' ... Most of the time I'll tell them not to ask for that kind of thing. That came up recently where ... say you've got a 20 acre lot and you fill 100 sq ft of wetland over here, can you hold up their building permit on the other side? No, you can't. It's unconstitutional but this allows you to have that discussion.

(#0310) Steve Clayton: The thought comes that we're reviewing somebody's request on the south shore of the hood canal and he brought in pictures where he's cut down a big tree and he's right on the water line and he filled and graded. Under some applications it might be appropriate to delay it.

(#0325) Wendy Ervin: If the person is going to correct whatever the problems are and be in compliance with whatever they need to be then they should not be punished for ten years.

(#0335) Steve Clayton: Is 'up to' enforceable for you?

(#0337) Darren Nienaber: Yes, it's fine the way it's currently written.

(#0330) Steve Clayton: So under that same heading two lines down you've got 'While the case is pending in Hearing Examiner, the county shall not '... How about we change the 'in' to 'before the'.

(#0345) Darren Nienaber: That's fine.

(#0347) Steve Clayton: On the section above that, and I think Senator Sheldon commented on this, under 'Right of Entry', I don't like that.

(#0356) Darren Nienaber: That was in the RO and it was virtually cut and pasted in there.

(#0358) Mark Drain: You want some notification before entry?

(#0360) Wendy Ervin: Yes.

(#0362) Mark Drain: I would agree.

(#0364) Darren Nienaber: I think the UBC requires prior notification. That's fine. We don't use it anyway. We don't use the right of entry provision. We do notification automatically. No planner has ever told me that they ever do that. You can go to the doorway and if you see a violation you can go a little bit on the property to check that violation but can't just go out and wander around.

(#0392) Steve Clayton: This appears to be saying that anybody, the review authority or any designee, can go on any property in the county without cause.

(#0400) Bob Fink: When you said this is a reiteration, isn't this a provision in the statute? The Planning Enabling Act?

Planning Advisory Commission Minutes, February 23, 2004

- (#0404) Darren Nienaber: Yes. It is in the RCW. We can let the courts figure out in other counties if the statute conflicts with the constitution.
- (#0412) Wendy Ervin: How about just saying that written permission or authority must be obtained before ...
- (#0415) Bob Fink: Well, verbal permission is fine. We don't want to limit it to written permission.
- (#0420) Darren Nienaber: The UBC says just 'prior notification'.
- (#0428) Bob Fink: Is there a specific reason why we're adding this language?
- (#0430) Darren Nienaber: You're cutting and pasting from the RO; it's already there. It's not an addition.
- (#0442) Mark Drain: Remember when they did the dike work in the Skokomish Valley they had to give prior notice before inspection or entering onto the property.
- (#0445) Steve Clayton: That was for a specific cause whereas this is a DR which is pretty open.
- (#0456) Darren Nienaber: Look on page 11 under 'inspections'. You're just moving it. It might be helpful some day.
- (#0476) Wendy Ervin: It's saying that you've got a regulation or a right under law to do something that is intrusive or could be misused and 'saying it's okay because we don't do it' I don't think that's the right answer.
- (#0485) Darren Nienaber: Where'd you get this from, Allan?
- (#0488) Steve Clayton: The wording on page 11 is dramatically different.
- (#0488) Bill Dewey: I'd feel a lot better putting the verbiage on page 11 into Title 15.
- (#0500) Darren Nienaber: Allan, you said you got it from the Planning Enabling Act? Yes, If it's in the Planning Enabling Act then we already have the authority; you wouldn't need to restate it in your code. But there's certainly no harm in taking what's in the RO instead and just pasting that in.
- (#0508) Wendy Ervin: Or just not putting this in here at all?
- (#0515) Steve Clayton: This inspection clause was to apply to the RO. If you're putting it into the DR's it applies over a different set of things than was originally intended.
- (#0524) Bob Fink: The Planning Enabling Act language, which is the authority for us to do zoning in the first place, does have language essentially the same as this right of entry language. Our actual practice is different; our actual practice is more along the lines as what the RO language was in that we don't go anyplace that would be considered trespass under normal circumstances or where entry has been refused. If we feel that we really had to we would go to the sheriff to gain entry.
- (#0545) Wendy Ervin: But you say you don't today but what about the person who's in your job tomorrow who has been told they can enter upon any land and make examinations and surveys, etc.? You can't guarantee the behavior of the next guy in your position and I don't think they should have the right to go on any land without notification.
- (#0565) Mark Drain: I had a case where they came on my property past the no trespassing signs without notifying me and it irritated me. In my case they cited that it is case law that they can do that but it's only neighborly that would call and ask and they never did and it provoked me. I have never denied them permission previous to that. So there it is a written law like this will be and they did it the way it's written.
- (#0578) Wendy Ervin: You just create a situation of hostility between the authority and the citizen if you allow the authority the latitude to be rude.

Planning Advisory Commission Minutes, February 23, 2004

- (#0584) Darren Nienaber: I actually don't have a problem getting rid of it.
- (#0586) Bill Dewey: Getting rid of it? It sounds like there might be support for taking the language that's here on page 11 instead.
- (#0590) Wendy Ervin: It's much better language on page 11.
- (#0592) Steve Clayton: It needs to be adjusted a little bit.
- (#0594) Mark Drain: I don't even like the words 'right of entry'.
- (#0595) Bob Fink: 'Inspections' is better.
- (#0598) Mark Drain: Or 'methods for seeking right of entry'.
- (#0600) Steve Clayton: Actually on page 11 it's under 'inspections'.
- (#0605) Bill Dewey: What needs to be changed, Steve, before we move it?
- (#0608) Steve Clayton: Well, the first line says 'necessary to enforce the provisions of this chapter'; it was intended to be the RO and not the DR's.
- (#0615) Bob Fink: You'd amend that chapter.
- (#0618) Darren Nienaber: Actually, you'd just cut and paste it.
- (#0620) Bill Dewey: Right. 'This chapter' would apply to the new chapter. Do you see anything else, Darren?
- (#0625) Darren Nienaber: That's fine. The rest of it I think will work just fine.
- (#0628) Bill Dewey: Does the PAC think that would be appropriate? Along with the title 'Inspections' to replace 'Right of Entry'?
- (#0630) PAC: Yes.
- (#0640) Steve Clayton: The last item I had was on page 22 under 'Revocation of Permits'. If somebody gets their permit kicked out then under (D) they can just apply again. Would a time limitation of six months or a year prevent people being obnoxious and just continuing to shove it in front of the HE and going through the system?
- (#0658) Terri Jeffreys: It already says one year.
- (#0665) Darren Nienaber: 'If a permit is revoked for fraud or deception, no similar application shall be accepted for a period of one year' ... So otherwise they can reapply immediately.
- (#0670) Steve Clayton: I'm guessing that in our permit application process it takes a lot to get them thrown out.
- (#0672) Bob Fink: It depends on the nature of the permit but it does take a lot to get them thrown out.
- (#0678) Steve Clayton: Usually you're going to modify, adjust or adapt. So if on the later part at least some sort of wait to discourage them.
- (#0682) Bob Fink: Right. It would be pretty egregious if it was necessary to revoke a permit.
- (#0692) Steve Clayton: You already have a one year waiting period for the fraud or deception but you don't

Planning Advisory Commission Minutes, February 23, 2004

have a waiting period if their permit got kicked out for some other cause.

(#0698) Terri Jeffreys: What are the other causes? I just don't know what they would be.

(#0700) Darren Nienaber: They didn't make their case good enough in front of the HE.

(#0710) Steve Clayton: What if it was a fraudulent sort of thing but Darren doesn't want to take them to court because he doesn't want to label it as fraud and they're just going to continue to reapply and reapply and that's going to tie up you guys.

(#0715) Darren Nienaber: I don't know if we've had any nuisance reapplicants. If anything thus far it seems to provide a more valuable service to the community for applicants or developers to be able to reapply and put their best foot forward. I haven't seen where it's been a problem yet with the other way around where they're just trying to hammer the system. If that starts to happen then it would be a good thing to bring that forward.

(#0735) Steve Clayton: I think Bob eluded to the fact that it takes a lot to get an application thrown out.

(#0738) Darren Nienaber: I don't know what you mean by thrown out.

(#0740) Bob Fink: To reach the point where it's been ... I don't know that it's ever happened.

(#0746) Wendy Ervin: I have a problem here with this whole thing, though. 'The Hearing Examiner may delete, modify or impose such conditions on the permit or approval it deems sufficient to remedy the deficiencies'. Then under B) "The Building Official, not the Hearing Examiner has the authority to revoke or modify building permits'. Aren't those two provisions in conflict?

(#0760) Darren Nienaber: We've got a more specific provision that's going to apply for building permits.

(#0765) Wendy Ervin: Then what is the permit that's being referred to under A)?

(#0768) Darren Nienaber: Substantial Development Permit or Variance.

(#0770) Bob Fink: The Title 15 applies to a range of activities from the Building Official to the Health Official to the Planners and the Planning Department as well as the Fire Marshall. There's a whole range of activities that are covered there. In the case of the Building Official, by the Building Code, reserves the right to revoke and modify building permits; not the Hearing Examiner. Those don't go to the Hearing Examiner. That's why there was a distinction made between those two. They just happen to be in the same procedural ordinance.

(#0798) Steve Clayton: So the nuisance for the six months isn't significant to you? The last part what I brought up earlier about being able to reapply right away.

(#0805) Bob Fink: It hasn't been a problem. There are other reasons why it might be revoked, for instance, failure to meet a condition is adequate reason to revoke it. As I say, usually you would try to get compliance to the conditions but they may decide not to comply in which case the permit might be revoked and then they might decide they still want to do it and they reapply and then they have to go through the whole process of getting a new permit. It wasn't thought necessarily at the time that people who just met those conditions needed to wait a year to reapply. I don't feel any driving need to add that because it hasn't been an issue.

(#0832) Steve Clayton: Okay.

(#0834) Wendy Ervin: Under 15.13.010 the last sentence says 'An employee of one review authority department may commence an enforcement action of violations of codes and regulations of other departments'. That sound to me like a real prescription for chaos.

(#0846) Darren Nienaber: No, that's been one of the best amendments we've had. We're not proposing any changes to that. That's been one of the best amendments we've had for quite a while and the reason why is that before you had extreme departmentalism ... the planning department said 'I don't enforce that; the

Planning Advisory Commission Minutes, February 23, 2004

building department enforces that'. The building department says 'it's not my job at all; the planning department enforces that' and the same way with environmental health. It always kind of baffled me because I rotate between all the departments. This allows Tami Griffey, who works in the building department, to bring a building case to the HE she can also join in with environmental health to solve waste cases or the planning department violations all in one case and she is authorized to bring those different departments codes forward simultaneously.

(#0880) Wendy Ervin: So this is not a prescription for people stomping on each others toes?

(#0882) Darren Nienaber: No, not at all. They really like it.

(#0898) Wendy Ervin: I'll make a motion that the inspections, the section under 17.01.200, Inspections, the sentence of the purpose of these inspections and 1) under inspections be moved to 15.13.010 B) and replace the language of B).

(#0920) Mark Drain: I second the motion.

(#0925) Bill Dewey: We have a motion and a second on that particular change. Any discussion? All in favor? Opposed? That motion passes.

(#0930) Wendy Ervin: I'll make a second motion that all other lined out section in 17.01.200, the staff recommendations for elimination of all the rest of the lined portions be accepted.

(#0942) Bill Dewey: And the renumbering mentioned by Allan?

(#0945) Wendy Ervin: Yes, and the renumbering and the italicized section, Enforcement Procedures are Set Forth in Title 15, Development Code Chapter 15.13, Enforcement and that that wording be accepted.

(#0955) Mark Drain: I second the motion.

(#0957) Bill Dewey: So we have a motion and a second. Any further discussion? All in favor? Opposed? Motion passes. Did the penalty section get deleted? Is there provisions for that?

(#0975) Darren Nienaber: Yes, in Title 15. We were doing it on a trail basis and seeing how it works and then we figured we'd come back and delete in the RO if it did work and it's working so that's why we're here again.

(#0989) Diane Edgin: We do have some added wording under 17.01.210, Restoration.

(#1005) Steve Clayton: Okay, I make a motion that we approve the rest of staff's recommendations on section r).

(#1020) Diane Edgin: I second the motion.

(#1022) Bill Dewey: We have a motion and a second. Any discussion? All in favor? Opposed? Motion passes. I think we need to call a break to it tonight. It was a pretty productive meeting tonight. Bob has something to hand out to us

(#1045) Bob Fink: I'll hand out these Belfair plans to you.

(#1055) Wendy Ervin: When is the next meeting?

(#1060) Bob Fink: On the 15th of March.

(#1080) Mark Drain: I might not be here on the 15th. I might be out of town.

(#1090) Allan Borden: The county has received an application for a rezone from Taylor United. We need to work that into the schedule. I'd like to do that on the 15th.

Planning Advisory Commission Minutes, February 23, 2004

(#1110) Bob Fink: So we'll have a hearing on the 15th with some more language items and also a rezone request that came in late but it's important enough to run it through this process.

(#1120) Allan Borden: It's not that complicated.

(#1022) Bill Dewey: It's not that complicated and we need it to build a new processing plant.

(#1130) Bob Fink: The Belfair plan that I passed out and other information, and there's also a transportation study and an economic study, that I'll provide probably next month. We'll try to get to this in April and that's why we may need another meeting some time in March if we need to finish up this part of the agenda. As I mentioned before, the community of Allyn has a draft they've been working on and they've gone public and are distributing it to the community hoping to get approval on it. There's going to be an open house on it March 3rd where it will be presented to the community and there'll be a chance for comment. At some point after that they'll bring it forward.

(#1180) Steve Clayton: The problem with that is that it hasn't been announced other than in the newsletter for the paying members of the subset of the Allyn community. We might want to make sure that there's some sort of publication in the paper of record.

(#1190) Bob Fink: One of the things we wanted to ask you is do you want this on your agenda? The Allyn Association is proposing it as an interim ordinance. An interim ordinance as a temporary ordinance can be adopted by the BOCC without your recommendation but if you are interested in hearing this then we'll bring it to you for a public hearing. Otherwise, the BOCC will hold their own public hearing and act on it only on an interim basis. Later, probably at the beginning of next year, there will be a plan and changes to the regulations based on that plan that will also probably be brought forward. So the temporary regulations would only last for a year based on the work program. So the question to you is whether you want to have these brought to you so you can make recommendations to the BOCC before they act on these interim regulations. It's not a legal requirement but we'll do that if you want to fit these into your schedule.

(#1240) Mark Drain: I could do without it.

(#1242) Steve Clayton: I'm just concerned about the public process involved in it and there hasn't been much.

(#1244) Bill Dewey: And you think bringing it before the PAC would increase that public involvement?

(#1246) Steve Clayton: I don't know, actually.

(#1248) Bob Fink: The BOCC has indicated they want a public hearing before they take action on it. So we'll hold at least one public hearing advertised by the county before any action is taken. If you want to hear this so you can make recommendations to the BOCC then we can schedule another hearing or if you want just a meeting where you can discuss and review it.

(#1268) Steve Clayton: Did you ever get together the Allyn and Belfair people to mesh some of their zoning stuff?

(#1272) Bob Fink: Not really. They don't really mesh. The concepts, scale and nature of the development of the two areas that they envision is really quite different. So there wasn't really a lot of room for trying to combine the districts.

(#1292) Terri Jeffreys: How will that be rectified and what will the process be?

(#1294) Bob Fink: There's no requirement they be reconciled. The county had wanted to encourage as much ... if any of the zones could have been the same we would have wanted to encourage that just because it's easier to administer and it's easier for people to remember. There's pretty broad differences in the vision of the two communities and how they would thereby restrict development in the two communities. There's not a lot of similarity between the different districts so there's no reason to try to reconcile them.

Planning Advisory Commission Minutes, February 23, 2004

(#1320) Diane Edgin: It sounds like we'd have that first public hearing and try to get some input from there and then we could make a decision on it.

(#1325) Steve Clayton: Or we could just let the BOCC pass the interim one and then it will be before us within a year.

(#1330) Bob Fink: Right. One of the reasons why it's being proposed as interim, even though we may be holding public hearings on it prior to taking any action on it, is simply because we really expect these regulations to be short term and they haven't yet finalized their subarea plan which they've been working on. They set it aside while they did these regulations because they thought there was an urgency to get some of their restrictions in place. As soon as this is done they'll go back to reviewing their plan and spend several months on that. When they've got their subarea plan the way they want it then they'll go back and look over their development regulations and see what needs to be changed to be consistent with the plan and then we'll be ready to adopt the final regulations and the plan. That will all come through you in the normal course of events just like the Belfair plan is coming to you hopefully in April.

(#1380) Bill Dewey: *(To PAC)* So you think we should pass on the first round and wait until it comes back before us later?

(#1385) PAC: Yes.

(#1388) Terri Jeffreys: I recommend the BOCC take their hearing up there.

(#1390) Bob Fink: We may do that but that would be up to the BOCC.

(#1400) Steve Clayton: I make a motion that we wait until it comes back to us.

(#1402) Mark Drain: I second that motion.

(#1404) Bill Dewey: We have a motion and a second. Any further discussion? All in favor? Opposed? Motion passes to have BOCC do interim ordinance and then bring back to PAC for final regulations.

Meeting adjourned.