MASON COUNTY
PLANNING ADVISORY COMMISSION

June 2nd, 2014

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

1. CALL TO ORDER

Chair Ken VanBuskirk called the meeting to order at 6:02 PM.

2. ROLL CALL

Members present: Ken VanBuskirk, Rob Drexler, Vicki Wilson, Kristy Buck, Tim Duffy. Bill Dewey was excused.

Staff present: Barbara Adkins & Michael MacSems

3. REGULAR BUSINESS

(a) Adoption of Agenda

The agenda was adopted.

(b) Approval of Minutes-

Minutes were reviewed from April 21st, 2014 and May 5th, 2014.

The PAC requested no change to April 21st, 2014. Kristy made a motion to approve all members are in favor.

Vicki stated on Page 4 of the May 5th minutes that two sentences read incorrectly “shall” should actually read “shall not”. Rob stated minutes would be accepted as amended all members are in favor.

4. PUBLIC HEARING –

(a) Amendments Title 13, Utilities Chapter 13.32, Latecomers Agreements

Consider amendments to Mason County Code, Title 13, Utilities, relating to the authorization of the use of Latecomers Agreements by the County as authorized by RCW 35.91.

Ken opens by explaining how the public hearing will run.

Barbara Adkins, *Director Department of Community Development*

Barbara gives some background on the hearing. This amendment would allow a developer to recoup a portion of the cost for installing utilities at their own expense. As the development occurs in the future this would allow them to recoup some of the funds as the county receives them. The code amendment describes some of the criteria, eligibility and terms.

Brian Matthews, *Director Department of Public Works*

Brian explained in example how this would work. A developer would like to put in a plat. There are other properties that would benefit from having the line put in. You would then turn in all your costs. Over a 20 year period you would be eligible to collect the cost of the construction on the sewer line on a pro rata share. The utilities department would record the improvements; the properties that would be eligible to connect would be required to pay. This would be an instrument to reduce the cost for all and encourage developers to make the utility connections.

Ken made reference to Page 2 Item L of the Latecomers Agreements for Utilities Facilities:

Service Area- shall mean the utility facility sub-basin, as approved by the department, used to determine the appropriate size, depth and location of the improvements that are necessary to serve the properties within the utility facility service area, as defined by the Department, including the Development. The Department may require the Service Area to include rural properties that are located within the count's utility facility service area. Rural properties will only be considered pursuant to RCW 36.70a.110 (4).

He raised the question does the county just have the two urban growth areas that this applies to? Brian explained that Public Works recognizes that they are in need of one set of utility codes for the entire county and are working to put that together. This document is showing Title 13 but will apply to all sewer systems in the utility approved use. Particularly Belfair the Sub-Basin area would be the Romance Hill area it's a small piece of the sewer system planned but not the full piece.

Vicki asked if the Latecomers Agreement is required. Brian stated no. It's a now or never type thing so that the information goes on the title and the property owner is aware when they connect what their pro rata share will be.
Tim asked, "Does this help us get into a standard method?" Brian confirmed yes that it does. Brian reiterated the fact that this provides encouragement for the developer who is fronting the cost.

Rob refers to Page 5, Item F #1:
Utility facilities design work limited to 10 percent of the total eligible construction cost.

Brian explained, that you can include the engineering cost as a recoverable cost, and stated "Someone has to do the engineering work and should be entitled to get that back as the project proponent."

John Cunningham elaborated on putting the document together. There are a number of communities that were looked at while going through this process Camas, Gig Harbor, Lynnwood, Lake Stevens, Renton, Port Townsend, Redmond, Everett, Monroe, and Colville. A reference that is used is called The Municipal Resource Services Center where different agencies can send in ordinances and codes to be viewed. The base of this document is from Pierce County Latecomers Authorization Code. Brian added that he knows personally that Clallam, Thurston and King County also have this in place as well.

Kristy made reference to Page 7 Item B as it reads:

The applicant shall agree to pay in full all applicable connection charges due to the county for the connection of the development to the public utility system and all other fees required by law, including but not limited to, plan review fees, inspection fees contract administration fees, utility side lateral stub charges, area charges, front footage charges, pro rata share costs of downstream Latecomers Agreements, recording fees and other administrative fees, prior to approval of the utility facilities plans for the improvements.

She asked for clarification from Brian regarding the wording. Brian stated "It should not be a pay to get approval type of mentality" John added it gets the agreement from the owner/developer that once they do the construction and connect to the county system they will pay the fees to receive the service. That way there is a record saying they agree to pay.

Kristy and Brian discussed the last sentence on Page 7 Item E:

Upon execution of the Latecomers Agreement, the applicant must proceed with obtaining the sewer line extension permit for the installation of the improvements and commence construction prior to the expiration of the approved utility facilities plans. Unless extended by mutual agreement between the county and the applicant, should

the applicants approved utility facilities plans expire prior to the initiation of construction of the improvements, then the Latecomers Agreement shall be null and void. Should the applicants approved utilities facilities plans expire due to inactivity for one year then the latecomers agreement shall be null and void.

Brian doesn't believe that the time frame is a state law. On the other hand there are simple things that people can do to show activity to avoid it becoming void.

Vicki brought forth a concern regarding *Eligibility for Appeals* as is currently reads:

Administrative determinations of the director covering the following specific issues may be appealed to the Mason County Hearing Examiner, in accordance with Mason Code, Section 15.11 A. Size and limits of the Service area (13.32.040 D)

Her concern is to make sure someone wouldn't be penalized if they were to get tied up in a lengthy appeal process. She would like to see them be accommodated. Brian feels possibly setting a time frame to get to the appeal process would handle the situation.

John goes over corrections that need to be updated based on changes that occurred to the RCW, within the legislature.

- In the document it refers to the agreement being between *the county and a developer* the state law now says it's between *the county and the property owner.*

- Page 8, Item K first line reads: *No Latecomers Agreement shall be for a period of less than 20 years from the date of final acceptance of the improvements by the county.* (Already updated)

- Page 7, Item G first line reads: *Within ~~15~~ **120** days following completion of construction of the facilities and acceptance by the county, the applicant shall provide complete and itemized copies of all invoices for cost related to construction of the facilities.*

Ken opens the floor for public comment; Jeff Carey brought forth a list of his concerns.

- It treats all properties the same
- Does not address community growth
- Not developer friendly or helpful
- Capacity sizes
- Will the county allow any utility line extensions along hwy 302, coulter creek rd or North Bay road?
- Why doesn't the county have a sewer comprehensive plan like Shelton's?

- A preliminary engineers plan/estimate should be done first and approved or not approved before doing a complete engineer's plan/estimate
- See 13.32.050 section D proposed code:

A side sewer is currently allowed to connect normally two parcels and in one case the county has allowed up to three and another at four
Having the property owners preferred location has its problems.

Ken paused Jeff for the sake of time and asked him to wrap up his concerns if possible.

Public Comment Closed-

Rob voiced his opinion on feeling the need for more structure. That way the PAC has some reference point to pull from. He cannot answer the questions being currently asked without having something to base the answers from.

Tom reiterated a summary of what is to be accomplished with the Latecomers Agreement. The Latecomers Agreement is simply a component of what you'd have if you had a complete full Comp Plan. It won't create any new regulations.
If you want to be paid for that work you need to come to the county and enter into a Latecomers Agreement. First to get the permission to hook up to the sewer and approved extension to the sewer line from there as people come in late, they have a mandate to pay a portion of sewer line that was extended at another's expense. This just gives the developer an opportunity to be paid for common infrastructure. It gives them a 20-year period to recoup the cost. None of this is designed to address extending outside the UGA, or subdividing, within this agreement. This simply states if you put a sewer line in that is legal within all other aspects, we are giving you a mechanism to be reimbursed.

The PAC reviewed the document and had concerns with its entirety.

Kristy motioned to table the discussion, Vicki 2nds the motion all members are in favor none oppose.

----- BREAK: 7:19PM - 7:27PM -----

(b) Mason County Development Regulations Amendments to Title 16, Plats and Subdivisions Chapters 16.08 and 16.21

Consider amendments to the Mason County Code, Title 16, revising definition of "cluster" in Section 16.08.014; and adding a new Section to Chapter 16.21 providing non-contiguous open space for performance subdivisions.

Barbara stated Mason County received an application for a text amendment from Green Diamond Resource Company. Barbara elaborated on what was proposed and the difference between each.

Adopted Version:
16.08.014 Cluster. A grouping of house lots within a subdivision, separated from other clusters by open space. For the purposes of this Title, a cluster in a rural area:
1) Shall not exceed eight (8) house lots
2) Shall establish an open space separation between clusters of at least 100 feet in width; and
3) Shall have not more than four clusters of house lots in any development

Proposed Version:
16.08.014 Cluster. A grouping of house lots within a subdivision, other than a performance subdivision separated from other clusters by open space. For the purposes of this Title, a cluster in a rural area:
1) Shall not exceed eight (8) house lots
2) Shall establish an open space separation between clusters of at least 100 feet in width; and
3) Shall have not more than four clusters of house lots in any development

2nd Revised Version:
16.08.04 Cluster. A grouping of house lots within a subdivision, separated from other clusters by open space. For the purposes of this Title, a cluster in a rural area:
1) Shall not exceed eight (8) house lots; and
2) Shall establish an open space separation between clusters of at least 100 feet in width

Barbara proceeded on to the second Code Amendment. This Amendment would be adding a new section for chapter 16.21, (performance subdivisions) With respect to open space, It allows for non-contiguous open space, which would be open space that would not be directly touching the subject subdivision. Page 2 of the Staff Report shows the proposed Amendment language. To summarize Barbara stated it would need to be approved by the Board of County Commissions or the Hearings Examiner through a developer's agreement.

Barbara continued on to what is for consideration with this first text Amendment. Whether or not clustering as defined applies to performance subdivisions. Performance subdivisions as well as cluster subdivisions are both mechanisms described in the County code. Both areas have sets of goals that can be achieved though a different variety of development methods. One of them being different types of subdivisions. A performance subdivision allows for additional residential density providing you meet certain design and performance criteria. A "cluster" subdivision allows for a reduction in minimum lot size and bulk requirements. Both sections have open space criteria as well as design standards. Neither of them describes exclusively how this is to be done, and neither of them specifically addressed "clustering."

Ken addressed Barbara with the question " Has there only been one other performance subdivision?" Michael MacSems responds, "There have been six others."

Mike Pruett *Green Diamond Resources Company*

Mike brought forth a sample concept plan for "Mill Creek" he stated contains over 50% open space retention, about 40% less roads, 40% less impervious surface runoff associated with it, a lower cost development to the county to provide emergency services. Mike stated if the county really wants to promote good quality rural development this would be the way to go.

Mike commented that the purpose of a Performance Subdivision is to have developers do things differently by providing more open space, being more creative in their design, and really have improved rural projects. Mike felt that through the process it just got lost with the definition of cluster. It was not meant for Performance Subdivisions. It was meant for "cluster" subdivisions but unfortunately there is nothing written anywhere that states the clearly.

Tim asked if the lots would be 2 acres in size.

Mike answered the lots can be as small as 20,000 square feet.

Tim asked, "You're wanting to clarify the expression so it excludes Performance Subdivisions?"

Mike replied, "Right. As it stands if staff in the county say "clustering" it applies to any performance subdivision of any size. Which would result in a project like ours having only 32 eligible sites for development."

Pat Schneider, *Attorney Foster and Pepper*

Pat came forth to give a little background on how they have reached this point. They were very surprised when they learned about the definition of "cluster" and also were surprised when they learned it applied to performance subdivisions. They took the time to look on the website and did not see the definition there. With more digging which took some time the ordinance was found. Pat reviewed the Growth Board decisions and found there really is no explanation that could be found as to why the definition was adopted. The county was responding to on going appeals to the Growth Board, the Growth Board was very concerned that the County was allowing what deemed to be urban density in the rural areas. At the time the county was allowing 1 unit per 2.5 acres. Pat says nothing in the Growth Board decisions that he has reviewed directed the county to adopt the definition of "cluster" It seemed to be something that just happened. It was part of a package; another piece of this was decreasing the density in the rural land. So the minimum now is one unit per 5 acres. It's quite strange that there is no policy basis for it. Pat reiterates that they are really just looking for clear policy

direction on the issue. To Pat it made no sense to limit density when doing a performance subdivision that doesn't use that definition.

Ken stated that he noticed in Mike Pruett's letter to the County Commissioners they had invested into water rights. Have they been secured?

Mike stated that they were not purchased, but they are helping PUD 1 put those rights to work. Each one of the projects that happen each developer will have to build the water system over time. Then PUD 1 would own and operate it.

Ken asked Mike if he was able to arrange a visit with the County Commissioners.

Mike replied "yes" I spoke with each one. Mike summarized on what they spoke about and the Commissioners agreed that there was not suppose to be a development or limitation associated with performance subdivisions. They saw a clear conflict. Why would you adopt something for performance subdivisions where there is an incentive to try and do things differently and then turn around and limit you with 32 lot limits?

Pat Vandehey, asked "how does this agree with the Growth Management Regulations?

Pat Schneider replied by stating there is nothing in the growth management hearing board decisions that adopted the definition. If you were to make one of the changes that we propose it would return the county to the stated density at 1 unit per 5 acres. This is consistent both with the growth board, GMA and the County Comp Plan. Pat does not think this would be inconsistent with the Growth Management Act. He feels it's cleaning up an issue. It will not increase density in the county and it promotes cluster development and preservation of open space.

Public Comment-

Pat Vandehey - reads the definition of a "cluster" within the growth management list "cluster" development means grouping the allowed development on only a portion of the site in such a way that significant portion of the site remains in common open space. Recreation, resource based, use of any combination of those uses or remains undeveloped with some sort of restriction on an additional development. Pat continues to read exerts from the RCW. Pat Vandehey recommends that the PAC read the RCW and compare the proposal to what stands in place currently.

Rob feels that the proposed concept just makes sense.

Vicki asked if staff would make comment. Michael Macsems refers back to the cluster definition. There have been a handful of performance subdivisions over the years. Since coming out of the moratorium in 2001. He reiterated back on not knowing why the definition is listed in one place and not the other he agrees it is something that needs to be fixed. During discussions with the Growth Board there were a lot of moving

pieces. Michael felt like the decision to choose a 32-lot limit was a bit arbitrary and just got thrown out there while bargaining a few different things. From the county notes the original plan was to possibly not have a cap. The idea of having a 32-lot cap on 1900-acre parcel is a little ridiculous.

Rob is curious if staff has a recommendation. Barbara explained that she didn't feel comfortable making any recommendation due to the fact she didn't feel comfortable going either way. Nothing that is being proposed violates any type of code or growth management she stated.

Michael feels if their needs to be a change best bet would be to get rid of the cap and leave the rest of it intact.

Rob spoke aloud to clarify what decision is to be made from the PAC.

Ken stated that he was a big believer in open space and conservation easements and he would like to commend Green Diamond. He personally thinks this is a big improvement.

Vicki summarized what options are available for the PAC to choose from.
Delete the definition entirely, modify the definition to clarify that it does not apply to performance subdivisions and last modify the definition by deleting the 4 clusters of house lots in any development.

Vicki's additional question asks for Green Diamond and staff to lie out priority of the options.

Mike stated his
1) Including the phrase other than a performance subdivision
2) Deleting the 4 cluster of house cap
3) To delete definition completely

Michael just has one choice at that would be removing the cap all together.

Barbara stated she would like to expand on removing the cap and revise the separation depending on the lot size.

Pat reiterates that the county still has the discretion to still say no if it appears to be too urban.

Kristy made a motion to add the words "other than a Performance Subdivision" in the definition of "cluster" as proposed by the applicant. Rob 2nds the motion. Recommend adoption to the Board of County Commissioners. All other PAC members in favor. None oppose.

The PAC began discussion regarding the proposed amendment with reference to open space.

Barbara reiterated that the design standards and guidelines were established to have open space that was available and accessible to as many people that live within that subdivision as possible. When you take it and move it way out yonder some people are going to have to trek to get to their open space. Also chances are they are not going to be able to see it either. The issue that Barbara wanted to reiterate is that when you remove the open space from the people its no longer enjoyable and they have to "work" to enjoy it. Her opinion is it goes against what the open space connection is with that subdivision.

Vicki stated that she feels conflicted. She can't say that she doesn't like this design.

Mike states that the "test" project lots are 1-2 acre parcels your still going to have lots of trees within the lot and on top of that still be surrounded by common open space.

Pat stated what is being proposed is really asking for is more flexibility

Vicki remarked, "Building in flexibility is a good thing as people and regulations adapt change happens"

Michael wanted the group to be aware if approved that Mason County with be the first county to approve something like this. It's outside of the mainstream.

Rob makes a motion to approve the applicant's request the proposed Amendment to 16.21.150 providing non-contiguous open space Vicki 2nds the motion all Pac members are in favor none oppose.

5. NEW BUSINESS

Barbara let the PAC know that their next meeting is June 16, 2014 and she will bring forward Multi Family House Tax Incentive Program in Residential Target Areas. As well will be continuing on with the Shoreline Master Program.

American Planning Association (APA) 2014 Spring Conference will be June 13th, 2014 1:00-4:00 @ the Civic Center.

6. ADJOURNMENT

Kristy moved to adjourn. Rob seconded the motion. The meeting was adjourned at 8:56 P.M.