

Date Approved: _____

MINUTES

Clallam County Planning Commission

*Regular Meeting of August 19, 2009
Clallam County Courthouse
223 East Fourth Street, Suite 5
Port Angeles, WA 98362-3015
6:30 PM*

- A. CALL TO ORDER: The meeting was called to order at 6:30 p.m.
- B. PLEDGE OF ALLEGIANCE.
- C. ROLL CALL: Members present were Chair Montgomery, Don Myers, Robert Miller, Nancy Esteb, Gary Gleason, Mel Rudin, Leo Leonard, Ben Cappa and Ron Bell. John Miller, Director; Steve Gray, Planning Manager; and Donella Clark, Planner III, represented staff from the Department of Community Development.
- D. WELCOME: Chair Montgomery welcomed all in attendance.
- E. APPROVAL OF MINUTES: August 5, 2009 Meeting Minutes.
- F. ANNOUNCEMENTS: None.
- G. PUBLIC COMMENT PERIOD: There was no public comment.
- H. UNFINISHED BUSINESS: None.
- I. PUBLIC HEARING ITEMS:

Chair Montgomery opened the public hearing.

1. Proposed Comprehensive Plan and Zoning Map Amendment Application No. REZ2008-00002, Paul and Paul Partnership, Applicant:

Staff gave a PowerPoint presentation on the proposal for a Comprehensive Plan and Zoning Map amendment of two portions of an approximate 74-acre parcel, as follows:

- Change the designation of the property south of Highway 101 from Commercial Forest (CF) to either Rural Character Conservation 5 (RCC5) or Rural Low Mixed (RLM); and
- Change the designation of the property north of Highway 101 from Commercial Forest (CF) to Rural Low (R5).

Staff summarized ownership, existing and surrounding land use/land cover, access, utilities, critical areas, and criteria that apply.

Staff Recommendation & Rationale:

Following an analysis by staff, the Planning Division recommends denial of the request, based on the following rationale:

- Approval would constitute spot zoning;
- No unmet need for additional rural residential development;
- Subsequent development would allow 13 residences without performance standards, increasing the encroachment of incompatible uses within the CF zone;

- Loss of habitat and watershed protection, and potential fire danger;
- Letter from WDFW dated May 5, 2009, in opposition to the proposal regarding inappropriate conversion of resource lands;
- Subject property has been designated as CF since 1984;
- Letter from WSDOT dated June 2, 2009, in opposition to the proposal regarding potential traffic impacts if residential development were to occur; and
- DNR considers properties with root rot as viable because the property can be recovered by planting species less susceptible to root rot.

Discussion:

Following staff's statement during the presentation that the subject property is "*completely surrounded by Commercial Forest,*" Commissioner Miller clarified that properties in the area are not solely timberland or vacant lands, as some owners currently use their property for recreational use and some property has minimal development. Staff concurred that even privately owned CF properties in the area are able to be developed.

Following Commissioner Esteb's inquiry regarding the zoning history of residential development areas, staff indicated that the residential development within the pockets of RW5 zoned lands were designated Quilluette Residential on the 1984 Comprehensive Plan and Zoning Map.

Commissioner Bell spoke to CCC 31.02.130(4), Residential Development and Forest Land Management, which recognizes that a residential development component may be necessary in order to achieve economic and practical use of the parcel. Staff responded by indicating that there is no clear error in zoning. Staff reiterated that the current and historical designation of the subject property and adjacent properties has been forest land, and that there is no evidence that suggests the property owners would not be able to achieve an economic return. There is also no evidence that suggests the County needs to contemplate de-designating commercial forest lands to rural residential development. In closing, staff noted that if the proposal is approved, the density would go from one home per 80 acres with the requirement of a conditional use permit, to one home per 5 acres, potentially creating a new "residential island" within the commercial forest lands.

Commissioner Miller reiterated the historical land use of adjacent parcels to the subject property.

Commissioner Gleason inquired as to the size of the two proposed portions of property, and requested discussion regarding potential mix of zoning designations, actual development potential, set backs, and riparian set backs. Staff indicated that the north portion is approximately 15 acres, and that the proposal request is to go to Rural Low (R5) zoning which would allow one home per 4.8 acres. The southern portion is approximately 60 acres that is proposed to go to either Rural Character Conservation (RCC5) which has a base density of one home per 10 acres, but if clustered, the density could be one home per 4.8 acres, and if the property were zoned Rural Low Mixed (RLM), the density is one home per 2.4 acres. Staff noted that setbacks are significantly less in the rural land designation than opposed to the commercial forest land. Critical area shoreline protection standards would equally apply whether in commercial forest land or rural land designation.

Public Testimony Received:

Brad Shea, Westech, P.O. Box 2876, Port Angeles, WA 98362

Mr. Shea distributed photos of the timber, indicating that although plantings of various species are being conducted, root rot is not necessarily fixable. The timber is thin due to root rot, it is not properly developing mass, and cannot be harvested on a normal rotation due to its condition.

Mr. Shea spoke in opposition to WSDOT's letter dated June 2, 2009 regarding potential traffic impacts. Mr. Shea indicated that the subject area is the longest, straightest stretch of Highway with 5 to 6 miles of straight away, and 1-1 ½ mile sight distance.

Mr. Shea noted that there is an area on the property that was harvested in 2001 which was replanted with cedar. The elk ate the seedlings, so it was replanted with Douglas Fir and is currently being managed for timber management.

Mr. Shea noted that with regard to utilities, he referred to a photo of the WSDOT facility showing power at the site, which is available to the subject property.

In closing, Mr. Shea spoke to the SEPA determination, alternatives, setbacks, and explained their reasoning for the requested designation change.

Bob Leach, NTI, 717 S. Peabody Street, Port Angeles, WA 98362

Mr. Leach began by indicating that a vacant lot is not necessarily an undeveloped lot, it perhaps, is just not yet built upon. There are approximately 42 lots in the Hecklesville area, there are 32 separate owners, and one property is currently for sale. He emphasized that the actual development density of any property is tied to the carrying potential of the property.

With regard to water resource issues, Mr. Leach noted that they can currently get a 5,000 gallon per day water right exempt well which reflects 6 or 7 possible homes, although the ability of the land to absorb also determines how many lots could be created.

Bert Paul, 162 Valley View Drive, Forks, WA 98331

Mr. Paul addressed the history and seriousness of the timber root rot issue, and provided historical information regarding the subject property and the Hecklesville area. He indicated that he purchased the property in 2006, as he already owned other timber properties, and also with the idea of being able to split off a couple of 10-acre parcels of riverfront property to assist with the costs associated with timber management and with the best prescriptive possible to improve timber productivity.

Mr. Paul spoke to the pre-application process, and how he was told by staff that historical CF designated lands do not normally get approved for a Comprehensive Plan and Zoning Map amendment. He feels the County's approach to rezone requests is that we should be looking at what is best for the property, the owner, and the County, from a best-use standpoint while protecting the environment.

Mr. Paul indicated that the property had more value as commercial than timberland, and spoke to the County's decreased commercial forest tax revenue.

Discussion was had regarding the type of soil(s) in the subject area.

A 10-minute break was taken.

2. Proposed Comprehensive Plan and Zoning Map Amendment Application No. REZ2008-00003, Green Crow Corporation, Applicant:

Staff distributed two letters received after the packet was mailed to the Planning Commission: 1) Letter from Steve Cavender received August 12, 2009; and 2) Letter from Robert Riley received August 14, 2009.

With regard to zoning history, staff wanted to make it very clear that the Blyn Rural Center as it existed prior to the change, did not include the Larsen or subject property, and that none of the subject property was affected by the WWGMHB ruling. Staff apologized for the use of the word "imaginary" on Page 17 of the Staff Report, as the intent was to refer to surveyed lines or boundaries.

Staff gave a PowerPoint presentation on the application requesting a Comprehensive Plan and Zoning Map amendment of eight properties comprising of approximately 195 acres, as follows:

- Change the designation from Commercial Forest (CF) to Commercial Forest-Mixed Residential Use 20 (CFM-20) for four properties owned by Green Crow Timber and three owned by Green Crow Corporation; and
- Change the designation from Rural Very Low (R-20) to Commercial Forest-Mixed Residential Use 20 (CFM-20) on property owned by Richard and Sharon Larsen.

Staff noted that following an analysis, the subject properties were not found to be zoned in error, and staff summarized information regarding ownership, existing and surrounding land use/land cover, access, utilities, critical areas, zoning history of subject properties, resource land designations under the GMA, and criteria that applies for a zoning map request.

Staff indicated that although rationale provided by Green Crow constitutes that there would be a higher level of protection under the CFM-20 zoning designation, staff concludes that currently under the CF zoning designation, there is a potential of more protection built in for reducing impacts both on-site and off-site if a parcel is developed for residential use.

Considerations Noted:

- Clustering two or more subject area lots is not mandatory under the CFM-20 zoning designation;
- A conditional use permit is currently required for residential development of the seven Green Crow properties;
- The conditional use permit process allows for further review and conditioning of development within forest lands;
- Single-family residential development on pre-existing lots within the CFM-20 zone is not subject to CF performance standards;
- Detached accessory housing is not allowed in the CF zoning designation area;
- CFM-20 zoning designation allows for more non-forestry uses;
- The subject area is not developed so currently has no impact on public services, utilities, and facilities;
- Proposed zoning would allow for potentially one additional residence and detached residential housing; and
- The subject area is at high risk for fire danger.

Staff Recommendation & Rationale:

The Planning Division recommends denial of the request, based on considerations previously noted and rationale as follows:

- Since the original designation of the Green Crow property as CF in 1984, conditions have remained unchanged except for a voluntary, self-imposed change in parcel configuration, and conditions of the Larsen property as R20 have also remained unchanged since its original designation;
- R20 acts as a transition area between CF and rural residential; and
- There is no other CFM20 in Sequim-Dungeness Regional Plan;

Staff spoke to wildland interface concerns, habitat and watershed protection, and scenic view shed.

Staff encouraged the Planning Commission to review the applicant's report and rationale which will provide a basis in comparison to staff's analysis.

Staff spoke to the proposal based on current policies, current zoning as written for commercial forest lands, and the current zoning for what's being requested.

Discussion was had regarding road access to the Larsen property.

Public Testimony Received:

Bruce Emery, Green Crow Corporation, P.O. Box 2439, Port Angeles, WA 98362

Mr. Emery began by indicating that the proposal reflects both parties wanting to market their property for future residential development.

Mr. Emery noted that staff accurately stated that up to this time, the subject property has been managed as commercial forest land, was harvested approximately 20 years ago, was replanted, and is currently enrolled in the County's timber land tax benefit program.

Mr. Emery indicated that it is better to cluster, rather than to rely on the conditional use permit process for more piece meal management of the land. If the rezone is not approved, it is still the applicants' desire to proceed with marketing the lots as they are currently designated. They would work through the access issues, so that the zoning criteria can be satisfied once new purchasers

decide to proceed with development of the lots, and each lot would be eligible for application for the conditional use permit process for single-family residential development.

Mr. Emery spoke to the bonus of the potential creation of one additional lot, if clustered. Other incentives include that the Green Crow would be managing the forest reserve lot which is a minimum of 136 acres of a contiguous forest tract surrounding what the applicants hope to be clustered residential lots. Further incentives include the possibility of taking the lots with varying view sheds and consolidating them where the views are maximized.

Mr. Emery indicated that the applicants do feel that an error was made in this case because they do not meet criteria (d) and (e), under C.C.C. 31.02.140, as follows:

- (d) The parcel has a minimum parcel size of 80 acres, or 1/8 of a standard section subdivision, or can be grouped to a total of 80 acres or 1/8 of a standard subdivision *[They do not. Green Crow has non-contiguous parcels];* and
- (e) The parcel does not meet criterion subsection (a) through (d) *[As the map shows, all six parcels fail on this criteria except for the lot to the extreme east owned by Green Crow Timber is surrounded on the north, east and south by lands owned and managed by DNR].*

Mr. Emery referred to staff's contour map, noting that Green Crow would be interested in two separate cluster nodes surrounded by the remaining property including the Larsen's property, being devoted to the forest reserve lot. Access would serve both lots and the management of the forest land which would create a buffer both between the abutting DNR land and to the residential lots to the north.

Mr. Emery spoke to residual impacts as noted in the staff report, indicating that there are residual impacts with all development, however, by clustering development is being consolidated by leaving larger surrounding expanses of land which can assist in mitigating and rectifying any problems created by development. Of great importance, everyone is subject to the standards of the land division code and the special development standards under C.C.C. 33.23 of the Zoning Code.

Mr. Emery read excerpts from C.C.C. 33.23.010, as included in Green Crow's report, regarding the criteria that cluster development has to satisfy in the Zoning Code in order to be approved, and noted conditions that the Hearing Examiner would need to approve regarding a conditional use permit.

In closing, Mr. Emery spoke to changed conditions and indicated that there is nothing preventing Clallam County and Green Crow from entering into an agreement to ensure the cluster development will occur following approval of this rezone. Green Crow's proposes that in order to provide assurance to the County, they would have the land division approved and completed within 5 years, which would apply to all of the property. Within the 5 year period, there would be no marketing of the properties, and if for whatever reason, the rezone was not approved, Green Crow would stipulate to a no protest rezone so that the properties would be converted back to its original CF designation, and there would be no development. The agreement would be signed and in place before the Board of County Commissioners prior to approval.

Following Commissioner Gleasons' inquiry related to Green Crow's track record for clustered developments, as an example, Mr. Emery explained that Green Crow currently has preliminary approval for a cluster development located west of the Elwha River, as Green Crow requested to develop lots that were larger in size than what was allowed under the previous zoning designation of RCC3. *[Reference was made to Green Crow Timber LLC Subdivision Application No. LDV2008-00017, requesting preliminary plat approval to divide 64 acres into 19 clustered lots and one large remainder lot in a Rural Character Conservation (RCC3) zoning designation which was approved July 25, 2008 by the Clallam County Hearing Examiner with 28 conditions].*

Commissioner Gleason inquired as to Mr. Emery's previous reference of "view lots" on the subject project. Mr. Emery indicated that view lots are possible by means of the 8-10% slope.

Commissioner Gleason questioned development within the landslide hazard area.

Steve Cavender, 387 Zaccardo Road, Sequim, WA 98382

Mr. Cavender, property owner of land located north of, or below, the subject property, spoke in opposition to any development or major disturbance of subject lands designated by the County as landslide and erosion areas.

Mr. Cavender noted that there was a landslide in the area that occurred approximately 11 years ago, and in 2002 he constructed a shop on his property which required a significant amount of engineering due to the proximity of the proposed construction area to the landslide hazard area.

In closing, Mr. Cavender spoke with concern regarding mineral extraction being an allowed use under the proposed CFM-20 zoning designation, as he is aware that the Larsen's had previously thought of extracting in the subject area.

Robert Riley, 383 Zaccardo Road, Sequim, WA 98382

Mr. Riley, property owner of land located north of, or below, the subject property, spoke in opposition to any disturbance of land identified by the County as landslide and erosion. This area is already very unstable.

Mr. Riley spoke to the landslide that happened approximately 11 years ago, which took out 600-800 feet of the access road and destroyed the community drip gravity water system.

In closing, Mr. Riley noted that various wildlife in the area include several species of owls, deer, bear, cougar, and eagles.

Mr. Emery indicated that the property is challenging, however, development is likely and would be done responsibly. Clustering would allow the applicants to effectively deal with various issues.

Commissioner Esteb requested additional information regarding root rot, such as when it began, how extensive it is, and the extent of the damage that has occurred. Staff offered to contact DNR for more general information, as staff cannot provide specific details regarding the property.

The public hearing was closed.

Commissioner Gleason asked staff to provide information at the next meeting whether future development such as Monterra, Mains Farm, 4 Seasons or Sunland, is possible under the current zoning.

Mr. Riley asked if he could submit information to the Commission regarding root rot. Following discussion, a motion was made and seconded by the Planning Commission to keep the comment period open in order to receive additional information regarding root rot until the close of business on August 26, 2009, so that staff may include the information in the next Planning Commission packet.

- J. WORK SESSION ITEMS: None.
- K. PUBLIC COMMENT PERIOD: There was no public comment.
- L. ADJOURNMENT: The meeting adjourned at 9:00 p.m.

Respectfully submitted,

Steve Gray
Planning Manager