

Date Approved: \_\_\_\_\_

**MINUTES**

**Clallam County Planning Commission**

*Regular Meeting of September 2, 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, Ben Cappa, Leo Leonard, Nancy Esteb, Ron Bell and Gary Gleason. Mel Rudin was not present. 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 19, 2009 Meeting Minutes.

Commissioner Cappa made a motion to approve the minutes as submitted. Commissioner Myers seconded the motion. Following a vote, the motion carried.

F. ANNOUNCEMENTS:

With regard to GMA compliance, staff noted that Doug Jensen prepared a Brief on behalf of the County addressing the remaining LAMIRDS and text changes, and the Brief was forwarded to all parties. Futurewise and Dry Creek Coalition responded that they have no further objections to compliance changes.

Staff noted that a GMA compliance hearing initially scheduled for September 11, 2009, has been tentatively rescheduled to September 17, 2009. Staff will inform the Commission of the hearing date when confirmed.

Staff reported that Dry Creek Coalition has petitioned a new case against the County regarding one of the County's implementation policies relating to LAMIRDS in terms of increased setbacks, landscaping, and minimizing impervious surfaces. This matter will be brought to the Commission in October.

Commissioner Gleason reported that at the recent EMMT meeting he attended, he learned of a second sizable restoration project underway at Jimmycomelately Creek involving the area around Woods Road. During the EMMT meeting, Commissioner Gleason noted that there was a rezone currently before the Planning Commission and that the property is located in the subject area.

- G. PUBLIC COMMENT PERIOD: There was no public comment.
- H. UNFINISHED BUSINESS: None.
- I. PUBLIC HEARING ITEM: None.
- J. WORK SESSION ITEMS:

Staff indicated that the Planning Commission held a public hearing on August 19, 2009, regarding Comprehensive Plan and Zoning Map Amendment Applications REZ2008-00002 and REZ2008-00003. At the hearing, staff provided PowerPoint presentations to overview the project background, and staff's analysis and recommendations with regard to each application.

Staff identified packet materials, including Draft Letter of Transmittal from the Planning Commission to the Board of County Commission containing recommendations for each proposal, which the Commission could make a motion to affirm, modify, or deny.

1. REZ2008-00002, Paul and Paul Partnership, Applicant

Staff began by indicating that Mr. Paul met with staff after the public hearing of August 19, 2009, and discussed his desire if the rezone is approved which would be to create two 10-acre parcels south of Highway 101. Although staff has not analyzed this option, density could be met by means of a Commercial Forest Mixed Use 20 designation or Rural Very Low, both of which have a density of one home per 20 acres. With regard to this notation, Commissioner Myers asked if staff has changed its recommendation. Staff replied that the recommendation of staff has not changed. Commissioner Esteb asked staff's position regarding density. Staff replied that following their analysis, they found that there was no zoning designation error and that the Commercial Forest designation is appropriate.

Commissioner Miller spoke to testimony received from Rod Stallman, DNR, with regard to root rot, timber species appropriate for the area, and the issue of whether there would be any economic value or return.

Commissioner Cappa cited CCC 31.02(a) and (b) with regard to applications meeting the required criteria. Staff referred to Finding No. 6 that states "*The Countywide Comprehensive Plan Policy CCC 31.02.140(23) states that: Land designated as Commercial Forest shall remain in this classification unless a strong case can be made that the zoning could be changed without affecting the commercial viability of the surrounding forest land.*" Staff noted that this is a key policy that the Commission needs to weigh and consider. Discussion was had regarding necessary criteria.

Motion # 1

Commissioner Gleason made a motion to approve REZ2008-00002, the southern portion to be rezoned RCC5 and the northern portion to be rezoned R5, as requested by the applicant. Commissioner Bell seconded the motion.

Commissioner Gleason stated the following reasons in support of the proposal: 1) Root rot; 2) Testimony received that small timberland holdings may need a residential component; 3) Testimony from Commissioner Miller, who resides in Forks, that there is a lack of residential and recreational property located along the Sol Duc River; 4) The subject property would support a cluster development, and the issue of working the land for timber is compounded by the fact that the property is split by US 101; 5) The property has good access, power and water available; 6) Feels that the subject property is more viable than other areas, and that this property is fairly isolated from the commercial timber; and 7) The site is approximately 2-2 ½ miles from Cooper Ranch Road, which is a major access to the Olympic Discovery Trail. Previously, Commissioner Miller has indicated that an extensive parking lot has been established on the corner of Highway 101 and Cooper Ranch Road which appears that the area has much potential for future economic development, and Commissioner Gleason feels that the west end desperately needs future economic development of residential and recreational properties.

Commissioner Bell spoke in support of approving the application proposal with regard to the root rot, economic return, and there is significant residential development in the subject area.

Commissioner Cappa spoke in opposition to the rezone request with regard to minimizing the density impact.

Commissioner Esteb spoke in opposition to the rezone request, as submitted, with regard to density.

Chair Montgomery spoke in support of the staff recommendation regarding denial of the proposal as he doesn't feel that the applicant has met the criteria requirements.

Commissioner Myers spoke in opposition to the rezone request, noting that access with Highway 101 going through the property should make the property more viable for logging.

Commissioner Gleason indicated that small pieces of property would only compound the economic issue. He spoke to his father's timberlands noting that there is constant activity needed to maintain a piece of timberland such as thinning, removal of junk or troublesome trees, and potential spraying. He indicated that his father got the greatest return when he sold the property. Higher density makes

the property more valuable for residential development. Once land is pulled out of Commercial Forest designation, we need to take a really good look at making the change viable.

Commissioner Myers spoke to the viability of the land.

Following a vote, the motion failed 5-3. Commissioner Myers – No, Commissioner Miller – Yes, Commissioner Cappa – No, Commissioner Leonard – No, Commissioner Bell – Yes, Commissioner Esteb – No, Commissioner Gleason – Yes, and Chair Montgomery – No.

#### Motion # 2

Commissioner Myers made a motion to approve and sign the Letter of Transmittal, as submitted by staff. Commissioner Cappa seconded the motion. There was no discussion. Following a vote, the motion passed 5-3. Commissioner Myers – Yes, Commissioner Miller – No, Commissioner Cappa – Yes, Commissioner Leonard – Yes, Commissioner Bell – No, Commissioner Esteb – Yes, Commissioner Gleason – No, and Chair Montgomery – Yes.

Commissioner Bell submitted a minority report.

Commissioner Gleason asked if he needs to submit a written report. Staff indicated that his comments could be transcribed and submitted to him for signature.

#### 2. REZ2008-00003, Green Crow Corporation, Applicant: / Dick and Sharon Larsen, Applicants

Staff indicated that the only new information received was a letter from Green Crow requested by staff, explaining the concept of a development agreement to ensure a cluster design as briefly suggested in testimony provided by Bruce Emery, Green Crow, at the public hearing, as an alternative.

Staff inquired with legal counsel whether a development agreement is appropriate, and was told that such agreement is not appropriate, rather staff recommends that the Planning Commission determine and make a decision on the merits of the application and record, and whether the application is consistent with the necessary criteria. .

Commissioner Bell spoke to Finding 20 that states *“there has been no change in condition or circumstance to the properties which warrants consideration of a different land use [and zoning] designation”*. Staff referred to Criteria 6 which relates to the application meeting the spirit and intent of the Comprehensive Plan. Staff noted that subject properties zoned commercial continue to be managed as commercial forest land.

Staff noted that for the seven (7) Green Crow properties, single-family residential development may be permitted through issuance of a Conditional Use Permit. Discussion was had regarding the Conditional Use Permit process, and the zoning designation history of the subject property and how that applies.

Commissioner Gleason asked staff for clarification of the referenced 130-foot setback. Staff replied that the Commercial Forest zone setback for a residence is 130 feet from the property line, as opposed to a Rural Very Low designation which has a 50-foot rear and 10-foot side setbacks.

Chair Montgomery inquired with regard to the zoning designation transfers relating to the property. Staff indicated that per County Charter, ordinances do not go into effect until 10 days after adoption so whatever was in place prior to that would apply. Staff noted that the County adopted its original Growth Management Plan in 1995, and in December of that year, the new Zoning Code was adopted. Early on, critical area regulations and resource land regulations had to be adopted while jurisdictions were putting together new Comprehensive Plan and development regulations.

#### Motion # 1

Commissioner Esteb made a motion to approve the proposal. Commissioner Gleason seconded the motion, and outlined reasons regarding his support of the proposal: 1) The property should not be considered commercially viable; 2) The land can be developed; 3) Approval would allow a clustering potential, which would direct development away from the landslide area which is a key component regarding public health and safety; 4) History of the subject area that the change in ownership avoid contiguous ownership for commercial forestry purposes. Green Crow deliberately planned to use the timber designation to avoid residential taxes on the property until ready for development; and 5) The subject property has active development around it and potential for future development.

Commissioner Gleason identified on a map the landslide area, and spoke to the importance of public safety and the benefits of clustering. Staff clarified that the critical areas map is an advisory map so the actual location of landslide hazard areas would be a field determination. Staff also noted that landslide hazard areas would be subject to some critical area protection standards regardless of zoning.

A 10-minute break was taken.

Commissioner Cappa spoke in opposition to the motion, however spoke in support of a combined Conditional Use Permit subdivision, as there would be constraints or a Conditional Use Permit process necessary in order to achieve development.

Chair Montgomery spoke to the applicant's standing that an error was made. Staff reiterated the applicants' standing that there was an error regarding zoning designation, and cited CCC 31.02.140 identifying Comprehensive Plan designation criteria.

Commissioner Bell asked if Finding 20 is correct. Staff indicated that in terms of whether changes have occurred, staff looks at the use [rather than deed amendments] being forestry as originally designated in 1992, and staff feels that this is a factual statement.

Commissioner Gleason indicated that following his review of the use tables, it is not clear to him whether the Commercial Forest designation precludes clustering. Staff indicated that this is somewhat related to Commissioner Cappa's statement whether a combined Conditional Use Permit subdivision is possible. Staff noted that the Commercial Forest designation does not address clustering, however the minimum lot size for residential development is 80 acres, which this proposal does not support unless parcels were to be combined to create an 80-acre parcel. Staff noted that the CFM20 designation clearly allows cluster development.

Chair Montgomery spoke in opposition to the motion.

Mr. Emery noted to staff that in the zoning use table in commercial forestry, planned unit developments are a prohibited use which provides indication of how a cluster subdivision would be viewed in the commercial forest zone.

Following a vote, the motion failed 6-2. Commissioner Myers – No, Commissioner Miller – No, Commissioner Cappa – No, Commissioner Leonard – No, Commissioner Bell – No, Chair Montgomery – No, Commissioner Esteb – Yes, and Commissioner Gleason – Yes.

#### Motion # 2

Commissioner Leonard made a motion to approve staff's recommendation in support of denial of the rezone application and for the Chair to sign the Letter of Transmittal. Commissioner Cappa seconded the motion. Following a vote, the motion passed 6-2. Commissioner Myers – Yes, Commissioner Miller – Yes, Commissioner Cappa – Yes, Commissioner Leonard – Yes, Commissioner Bell – Yes, Chair Montgomery – Yes, Commissioner Esteb – No, and Commissioner Gleason – No.

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