

Supplemental Report to the Planning Commission
Comprehensive Plan and Zoning Map Amendment
Application REZ2003-00003
Norbert & Michele Juhasz

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Division*

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On February 4, 2004, the Clallam County Planning Commission held a work session to review three Comprehensive Plan and Zoning Map Amendment Applications received last year. Included in this preliminary review was Application No. REZ2003-00003, an application on behalf of Norbert & Michele Juhasz requesting a comprehensive plan land use and zoning change for approximately 3.78 acres from Rural Limited Commercial (RLC) to Rural (R1). Figure 1 shows the location of the Juhasz's application which includes a 3.05 acre parcel (Parcel A) and a 0.73 acre parcel (Parcel B). A more detailed description of the impacted property and vicinity is found in the original Staff Report, dated January 30, 2004.

The purpose of the work session was to discuss process issues concerning the amendment applications, and to answer specific questions Planning Commission members had with respect to Staff Reports and recommendation. The intent of this supplemental staff report is to correct and clarify portions of the analysis presented within the original staff report, and also to respond to several issues/questions raised by the Planning Commission at the February 4 work session, in regards to the Juhasz's application.

Ownership of Parcel B

The original staff report indicated that the Juhasz's application impacted two parcels, which were referred to as Parcels A (3.05 acres) and B (0.73 acres). The report indicated that both parcels were under the ownership of the applicants, Norbert & Michele Juhasz. However, Parcel B is owned by Olen J. Bray of Colorado Springs, Colorado.

Pursuant to CCC 31.08.310 and C.C.C. 33.35.090, a comprehensive plan land use and zoning map amendment application needs only to be signed by a "majority" of the owners of properties impacted. This requirement has been met since the Juhasz's (applicant) own 3.05 acres of the total of 3.78 acres proposed to be changed from RLC to R1, and represent one of two property owners within the area proposed to be changed. Inclusion of Mr. Bray's ownership in the Juhasz's application avoids leaving an isolated 0.73 acre parcel in RLC, if the application was to be approved. Mr. Bray has been sent copies of the application, staff report (dated January 30), and this supplemental staff report, and will also be notified of the scheduled March 3, 2004, public hearing, by certified mail.

Parcel B (Figure 1) is located on and adjacent to the side slopes of the Morse Creek Ravine, a mapped landslide hazard area. Staff review of aerial photos taken in 2000 indicated that Parcel B appears to only contain an approximately 25-foot wide strip of

land along the top of slope of the mapped landslide hazard area. The rest of the lot is located within the mapped landslide hazard area. The actual extent of landslide hazard area on the subject property would need to be confirmed by a qualified professional.

The Clallam County Critical Area Code requires a minimum 50-foot protective buffer from the top and toe of all slopes classified as landslide hazard area (CCC 27.12.415 (1)). This buffer may be reduced to twenty (20) feet with approval of a geotechnical report. Any buffer reduction less than twenty (20) feet, or developments proposed within the landslide hazard area would require granting of a variance or reasonable use exception.

The Deed to Parcel B indicates this property was acquired by the current owner on December 14, 1990, pursuant to a County tax foreclosure sale (Volume 904, Page 455). Records on file with the Clallam County Assessor indicate this property is valued at only \$400. It's location within the designated landslide hazard area, conditions of sale, assessed value, and lack of platting or other land division review, appear to support that the property has never been represented or guaranteed as a buildable lot.

Clarification of Development Potential

The Planning Commission correctly noted at the February work session that approval of Juhasz's application could potentially result in three new residential lots being created on Parcel A (Figure 1) owned by the applicant. Section (B)(3) of the original Staff Report (*see page 10*), indicated that under both the existing Rural Limited Commercial (RLC), and requested Rural (R1) zones, the number of potential lots available for development could only be increased from the two existing parcels (Parcels A and B) to a total of three, or one additional lot. This conclusion was reached by not only considering the underlying minimum lot size of both the RLC and R1 zones (1.0 acre), but also the conditions of Parcel B having a limited building area outside of the designated landslide hazard area. However, given that Parcel B is now understood to be under the ownership of a separate party, Parcel A, being 3.05 acres in area could in fact be potentially divided into three (3) separate lots for a total increase of two potential lots available for development.

Staff does not believe this has any substantial impact on the conclusion provided in the analysis of the January 30 Staff Report. The number of potential lots remains the same whether the property remains zoned RLC or goes to the requested R1. The main point of the staff analysis is that the **potential uses** under the current RLC zone (C.C.C. 33.15.060) could have far greater potential impacts than those likely to occur under the R1 zone (C.C.C. 33.10.040). This is a fundamental reason why the Comprehensive Plan limits the scope and area of the RLC zone to only those areas with pre-existing commercial developments in rural areas (C.C.C. 31.04.225). It is staff's opinion that the potential of two new residential lots still does not represent a significant expansion of the Rural (R1).

Staff Recommendation Regarding Residential Lot to the East

In the Staff Report (dated January 30), staff recommended that the Planning Commission consider recommending that the 1/3rd of an acre residential site immediately east of Parcel A be changed from RLC to R1, or the same change requested by the applicant for Parcels A and B (Figure 1). This lot is also owned by the Juhasz'. The staff

recommendation is based on the current residential use of the parcel, the changed circumstances that would result if the subject amendment request were approved, and the consistency such a change would have with respect to the other residential properties to the north.

The applicant has stated in their application that their ownership between the existing C'est Si Bon Restaurant and Parcel A (Figure 1) is intended for potential business expansion. This area includes the 1/3rd acre residential parcel immediately east of Parcel A and an approximately 1.5 acre vacant lot between the restaurant and this residential lot. A residential use is not inconsistent with the uses allowed in the RLC zone, which allows for single family dwellings associated with an established commercial use. In addition, based on review of the application materials, the existing residential structure would appear to meet the criteria of a lawfully-established, non-conforming use of RLC-zoned property, and would be allowed to continue pursuant to C.C.C. 33.43.030. Therefore, under the current RLC designation, this lot could be continued to be used for residential uses, a residence associated with an established business, or converted to allowed business uses in the RLC zone. These reasons support the applicant's desire to maintain their adjacent residential parcel within the RLC, and should be considered by the Planning Commission.

Status of Abutting Historic Railroad Grade

The Planning Commission asked staff to investigate the ownership and potential use of the narrow, north-south trending property along the western boundary of the subject property (Figure 1). This property is part of the right-of-way that was formerly under the ownership of Seattle North Coast Railroad Company. The historic railroad right-of-way is approximately 100-foot wide and is located on the side slope of the Morse Creek Ravine situated above the residential area of Four Seasons Park and below the residential and vacant lands areas at the top of slope which include the subject property.

Several portions of this historic right-of-way in the vicinity have been transferred to various private parties and home-owner associations. In some cases, the right-of-way purchase has been for the purpose of preserving the stability of the steep slope on behalf of property owners living above and below the steep slope of the ravine.

The particular strip of old right-of-way immediately to the west of the subject property is approximately 1.83 acres according to Clallam County Assessor Records. It was recently acquired by Federal Asset Recovery, Inc., of Tacoma Washington. Plans for future use or development of this property are not known at this time. The development potential of this property is limited due to its narrow lot configuration and location within a designated landslide hazard area. Any subsequent use of the property will have to be in conformance with the provisions of the Clallam County Critical Areas Ordinance. The current comprehensive plan and land use designation for the property is Rural (R1), or the same designation requested by the applicant.