



RESOLUTION 88, 2008

ADOPTING SPECIFIC FINDINGS FOR ORDINANCE 835 REGARDING CLALLAM COUNTY COMPLIANCE RESPONSE TO THE GROWTH MANAGEMENT HEARINGS BOARD'S FINAL DECISION AND ORDER, CASE NO. 07-02-0018C

THE BOARD OF CLALLAM COUNTY COMMISSIONERS finds as follows:

1. The Western Washington Growth Management Hearings Board (WWGMHB) issued an Order in Case No. 07-02-0018c, finding noncompliance and invalidity on portions of Resolution 77, 2007 and Ordinance 827 involving:
  - a. Clallam County Code (CCC) 33.10.030 (Rural Moderate [R2]), CCC 33.10.035 (Western Region Rural Moderate [RW2]), CCC 33.10.040 (Rural [R1]), and CCC 33.10.045 (Western Region Rural [RW1]);
  - b. CCC 33.13.010 (Urban Residential High Density [URH]), CCC 33.13.020 (Urban Residential Low Density [URL]), and CCC 33.19.030(1) (Sequim Urban Residential – I [S(R-I)]) zoning districts within the Sequim and Port Angeles Urban Growth Areas (UGAs); and
  - c. Chapter 33.20 CCC as it applies to the Carlsborg UGA; and (d) CCC 31.03.270 (Rural Center) as it applies to the 'Blyn' area of the County. The WWGMHB Order established October 23, 2008, as the deadline for Clallam County compliance response.
2. Clallam County adopted an emergency ordinance (Ordinance 832, adopted May 27, 2008) establishing interim controls on receipt of applications for development within lands under invalidity, pursuant to RCWs 36.70A.390, 36.70.795, and 35.63.200; and excepting those under RCW 36.70a.302(3)(b). Ordinance 832 served to immediately preserve the status quo on lands subject to the April 24, 2008 compliance and invalidity orders against the vesting of potentially GMA-incompatible development. Resolution 57, 2008 adopted specific findings for adoption of the emergency interim controls.
3. Clallam County adopted "Interim Official Controls" (Ordinance 833, adopted July 22, 2008) on lands subject to non-compliance and invalidity, pursuant to RCWs 36.70A.390, 36.70.795, 35.63.200, and 36.70A.130(2)(b); and excepting development allowed under RCW 36.70A.302(3)(B). Ordinance 833 effectively extended the emergency interim controls adopted under Ordinance 832. Resolution 69, 2008 adopted specific findings for adoption of the interim official controls.
4. The Board of County Commissioners and Planning Commission held a joint special-meeting/public workshop on August 6, 2008, regarding compliance strategies, work plan, and public participation to address the recent non-compliance and invalidity orders of the WWGMHB. At the special meeting, the Board adopted a public participation policy, Resolution 79, 2008, for compliance proceedings pursuant to the WWGMHB rulings.
5. The Planning Commission held public workshops/work sessions on portions of the comprehensive plan and development regulations found non-compliant and invalid by the WWGMHB on August 13, 20, and 27, 2008 and on September 3, 2008. The purpose of these workshops was to inform the public of the WWGMHB Order, obtain public input on the County's compliance response, and develop a compliance response to take to public hearing.
6. The Planning Commission held a public hearing on September 17, 2008 in Port Angeles and on September 18, 2008 in Forks on their recommended compliance response to the WWGMHB non-compliance and invalidity orders.
7. The Planning Commission held a work session on September 24, 2008, to consider public comments and testimony received.
8. The Chair of the Planning Commission submitted their findings and recommendations to the Board in a signed Letter of Transmittal dated September 29, 2008. The Letter of Transmittal and its attachments are incorporated and attached hereto as Exhibit A. The attachment to the Letter of

Transmittal contains the Planning Commission's specific recommended comprehensive plan amendments, development and zoning amendments, and comprehensive plan land use and zoning map amendments.

9. The Board of Clallam County Commissioners held public hearings on October 14, 2008 in Port Angeles and Sequim, and on October 15 in Sekiu and Forks, on the Planning Commission's recommendations and County's compliance response to the WWGMHB Order.
10. The Board of Clallam County Commissioners held a work session on October 20, 2008 to consider public comments received.
11. The WWGMHB found that the County's Rural Moderate (R2) and Western Region Rural Moderate (RW2) Zoning Districts and related comprehensive plan policies and map designations, permit urban, not rural densities, outside of urban growth areas and are invalid. The Board of Commissioners adopts the Planning Commission's recommendation to retain the Interim Rural Low (R5) and Western Region Rural Low (RW5) zoning adopted under Ordinance 833, and request the WWGMHB to extend the October 23, 2008 deadline for compliance to evaluate a variety of compliant zoning designations and to study other options.
12. The WWGMHB found that the Carlsborg Urban Growth Area (UGA) does not possess a valid capital facilities plan for the construction and funding of a municipal sewer and fails to establish sufficient law enforcement coverage for the area. The Board of Commissioners adopts the Planning Commission's recommendation to retain the interim controls adopted under Ordinance 833 that apply to the Carlsborg UGA and request the WWGMHB extend the October 23, 2008 deadline for compliance for one-year to allow for completion of capital facility planning for wastewater treatment, collection, and water reuse system, level of service for police services, and related land use plan updates. Jefferson County was recently granted a one year extension on a compliance order involving the Irondale and Port Hadlock UGA which involved similar capital facilities issues.
13. The WWGMHB issued an order of invalidity for the Sequim Urban Residential – I S(R-I) zoning district within the Sequim Urban Growth Area (UGA), together with all comprehensive plan policies and map designations that relate to these zoning districts. The Board of Commissioners adopts the Planning Commission's recommendation to:
  - a. Update the comprehensive plan land use and zoning map to adopt the Interim Sequim Urban Residential – II zoning that replaced the found invalid S(R-I) zoning under Ordinance 833 as the final land use and zoning designation. The Commission found that adopting the S(R-II), a zoning designation currently provided for under the approved City of Sequim Comprehensive Plan and Development Regulations, is the appropriate re-designation of the non-compliant, S(R-I) zoning district within the unincorporated Sequim UGA.
  - b. Amend Chapter 33.19, Sequim Urban Growth Area, of the zoning code to eliminate the S(R-I) zoning district and related development standards.
  - c. Amend CCC 31.03.315 of the comprehensive plan to eliminate S(R-I) designations and related policies.
14. The WWGMHB issued an order of invalidity for the Urban Residential High (URH) and Urban Residential Low (URL) zoning districts within the Port Angeles and Sequim Urban Growth Areas (UGA) allowed for new development at non-urban densities, together with all comprehensive plan policies and map designations that relate to these zoning districts. The Board of Commissioners adopts the Planning Commission's findings that the URH and URL zones are not found within either UGA and was otherwise unable to identify non-compliant urban zoning districts, comprehensive plan policies or map designations within the Sequim and Port Angeles UGAs, in accordance with the Order of the Hearings Board.
15. The Planning Commission received considerable public testimony in regards to removal of the found invalid S(R-1) zoning district east of N. Priest Road, south of W. Hendrickson Road, and north of Brackett Road within the unincorporated Sequim UGA. For this area, the Board of Commissioners adopts the Commission's findings that pursuing an intergovernmental agreement with the City of

Sequim on annexations and utility extensions and a study on the removal of all or portions of the Hendrickson/N. Priest Road area from the Sequim UGA is an appropriate matter for future Commission consideration. The Board of Commissioners further adopts the Commission's findings that controlling land division activity to prevent new urban density divisions within the Hendrickson/N. Priest Rd. area during the period of any re-evaluation of the UGA boundary is also an appropriate matter for future Commission consideration.

16. The WWGMHB found invalid the County's designation of Blyn as a Rural Activity Center for more intensive rural development, where Blyn has not been established as either a UGA or limited area of more intensive rural development (LAMIRD). The Board of Commissioners adopts the Planning Commission's recommendation to:
  - a. Limit the Rural Center (CEN) land use and zoning designation to the area north of US 101 and an area south of US 101 in the vicinity of Zaccardo Road and formerly designate these areas as the Blyn LAMIRD under CCC 31.02.263.
  - b. Update the comprehensive plan land use and zoning map to adopt the Interim Rural Low (R5) designation that replaced the found invalid CEN zoning under Ordinance 833 as the final land use and zoning designation for the areas excluded from the recommended Blyn LAMIRD.
  - c. Include as part of the evaluation referenced under finding of fact 11 above, those areas that are proposed for designation to Rural Low (R5).
  - d. Amend the CEN zoning district standards to require uses to be similar to the type, scale, size, or intensity of uses that existed prior to or as of July 1, 1990 and amend the comprehensive plan neighborhood provisions for Blyn under CCC 31.03.435 consistent with the above responses.
17. The WWGMHB found the designation or boundaries of 20 of the County's LAMIRDs is not supported by sufficient facts that such more intense rural development was in existence as of July 1, 1990. The Board of Commissioners adopts the Planning Commission's recommendation to:
  - a. De-designate the Southwest Carlsborg, Quillayute Prairie, Little Quillayute Prairie, and Lyre River LAMIRDs in their entirety which also involves proposed new land use and zoning designations for the affected lands;
  - b. Adjust the outer boundary of the other 16 found non-compliant LAMIRDs which also involves proposed new land use and zoning designations for the affected lands;
  - c. Create a new Rural Village Low (RV2) zoning district for the southern portion of the Dungeness Village LAMIRD;
  - d. Create a new Tourist Rural (TR) zoning district for the proposed Crescent Beach LAMIRD;
  - e. Change the Deer Park LAMIRD General Commercial (GC) land use and zoning designation to Rural Limited Commercial (RLC) and eliminate the GC zoning under CCC 33.15.030;
  - f. Amend the Rural Neighborhood Commercial (RNC) and Rural Limited Commercial (RLC) zoning district standards under CCC 33.15.050 and CCC 33.15.060, respectively, to require uses to be similar to the type, scale, size, or intensity of those that existed prior to or as of July 1, 1990;
  - g. Update LAMIRD comprehensive plan designation and other provisions under CCC 31.02.263;
  - h. Update rural land provisions of the comprehensive plan under CCC 31.02(.260, .265), CCC 31.03 (.020, .260, .270, .290, .340, and .435); and CCC 31.04 (.225, .230, .400, and .410) consistent with the above proposed actions; and
  - i. Amend the Rural Limited Commercial (RLC) zoning district standards to list churches as an allowed use instead of a prohibited use within the Rural Limited Commercial (RLC) zoning district.
  - j. Include as part of the evaluation referenced under finding of fact 11 above, those areas that are being excluded from LAMIRD designation and that are proposed for designation to Rural Low (R5) or Western Region Rural Low (RW5).
18. The amendments adopted by and through said Ordinance and associated with this Resolution were considered in a SEPA Determination of Non-Significance issued on September 11, 2008, and attached hereto as Exhibit B.
19. The GMA requires that a public participation process be established for amendments to comprehensive plans and development regulations. The County established and followed a public

participation program adopted pursuant to Resolution 79, 2008 to ensure early and continuous public participation throughout this compliance process.

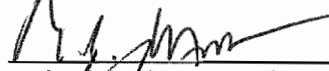
20. The amendments adopted by and through said Ordinance and associated with this Resolution are in the best public interest and comply with GMA and other governing laws.
21. The amendments adopted by and through said Ordinance and associated with this Resolution amend, repeal, and supersede only the referenced provisions of Chapters 31 and 33 of the Clallam County Code and the Official Comprehensive Land Use and Zoning Map of Clallam County as of the effective date(s) of said amendments, as to the prior Ordinances and enactments associated thereto, the remainder of which shall remain in full force and effect.

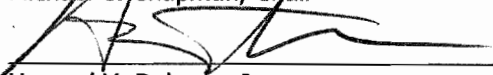
NOW, THEREFORE, BE IT RESOLVED by the Board of Clallam County Commissioners, in consideration of the above findings of fact:

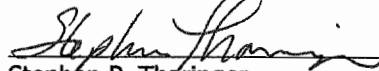
1. That Ordinance 835 which amends Chapters 31.02, 31.03, and 31.04, of the Clallam County Comprehensive Plan; amends Chapter 33.19, Sequim Urban Growth Area; and Chapter 33.15, Commercial Zones, of the Clallam County Zoning Code; and incorporates amendments to the Official Clallam County Comprehensive Plan and Zoning Map brings the County's comprehensive plan and zoning code into compliance with the Growth Management Act.
2. That requesting additional time from the WWGMHB under RCW 36.70A.300 (3)(b) to propose compliance measures for the County's Rural Moderate (R2) and Western Region Rural Moderate (RW2) Zoning Districts, and related comprehensive plan policies and map designations, is warranted.
3. That requesting a one-year time extension from the WWGMHB under RCW 36.70A.300 (3)(b) to propose compliance measures for the Carlsborg Urban Growth Area (UGA) is warranted to allow for completion of capital facility planning for wastewater treatment, collection, and water reuse system, level of service for police services, and related land use plan updates.
4. That retaining interim official controls adopted under Ordinance 833 for the found invalid R2, RW2, and Carlsborg UGA is warranted to protect against the vesting of potentially GMA-incompatible development while the County evaluates and adopts a final compliance response to these affected lands.
5. That including within the evaluation referenced under finding of fact 11 above those areas that are being excluded from LAMIRD designation and that are rezoned to Rural Low (R5) or Western Region Rural Low (RW5) under the Ordinance associated with this Resolution, is warranted.

PASSED AND ADOPTED this twenty-first day of October 2008

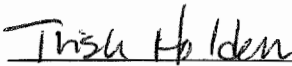
BOARD OF CLALLAM COUNTY COMMISSIONERS

  
\_\_\_\_\_  
Michael C. Chapman, Chair

  
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Howard V. Doherty, Jr.

  
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Stephen P. Tharinger

ATTEST:

  
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Trish Holden, CMC, Clerk of the Board