

MASON COUNTY PLANNING ADVISORY COMMISSION

Minutes
September 20, 2004

(Note audio tape (#2) dated September 20, 2004
counter (#) for exact details of discussion)

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

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1. CALL TO ORDER

The meeting was called to order by Vice-Chair Steve Clayton at 6:00 p.m.

2. ROLL CALL

Members Present: Steve Clayton, Wendy Ervin, Terri Jeffreys, Tim Wing, and Diane Edgin. Bill Dewey and Mark Drain were excused. Wendy Ervin was excused from the August 16th meeting.

Staff Present: Bob Fink, Darren Nienaber, Allan Borden, Susie Ellingson.

3. APPROVAL OF MINUTES

None.

4. NEW BUSINESS

(#0055) Steve Clayton: We have five public hearings on the agenda for tonight. The first one up is good as is. We have no public tonight in the audience at this time.

(#0080) Allan Borden: The first topic as was in the legal notice is consideration of Standards of replacement of development either to be in the RO under section 17.01.110. or section 17.01.140. Possible change in DR's under section 17.05.010 and in the SMP under Title 15 section 15.09.055. Those are the areas where a possible revision for replacement of development could be involved. This topic was an issue when we pulled together a list of proposed revisions earlier in 2004. With the list of standards that have been revised in the last several months, the possible revision to section 17.01.110.F., was addressed and recommended by the PAC on August 16th. That had to do with section 17.01.110.F.1., having to do with remodeling and replacement of existing development within the footprint of that development, plus 10% and there were certain standards that were also added that development utilizing that provision would have to follow. Section 17.01.110.F.2., provides the uses and activities in the landscaped area within a buffer that may be exempt from an MEP. A revision was also proposed and approved by the PAC in August, 17.01.110.G.2., which addressed certain appurtenant and accessory development that can be reviewed by an MEP but does not require an HMP. I'm going through what the PAC has reviewed that may address this issue. Under the DR's under 1.05.010 has standards to review nonconforming buildings and uses and the proposed alteration and expansion or reconstruction of those buildings. So those development standards already exist. The SMP under Title 15 section 15.09.055 has standards to review nonconforming residential development as well as

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nonresidential land uses proposals. Due to the development of these standards staff would conclude that no new text for a uniform placement policy is needed at this time so there's no proposed revision. We just needed to address that point. What I've discussed tonight is that we've come to the conclusion that there is no need for a uniform replacement policy that these standards already exist in current regulations.

(#0235) Wendy Ervin: So is that saying that there's no action necessary because it's all there?

(#0245) Allan Borden: Right.

(#0252) Darren Nienaber: It actually didn't even need to be on the agenda.

(#0262) Bob Fink: We just wanted to clarify for the record that this issue has already been incorporated in actions already taken.

(#0282) Allan Borden: On to #2. This includes a revision in the RO section 17.10.110 under FWHCA's a new provision under G.2.f., and it addresses park and community recreational land use development in saltwater and freshwater areas. This new text focuses on existing land uses located in the FWHCA's. These are either parks or community recreation areas. Typically in areas that are already developed for those kinds of land uses so instead of applying for a variance a park operator could apply for an MEP to review the proposed picnic and assembly structures that are a modification or an addition to an existing structure. Such proposed structures would still be subject to the applicable standards of the RO, SMP or other development ordinances. Since the proposal occurs in the area of an existing park and community recreation use the anticipated impacts to the buffer from the proposal are expected to be minimal. So what I've put on the bottom of page 2 of this report is a section out of the RO under G.2.f.2. Section G has to do with activities and development requiring an MEP; subsection 2 is activities where an HMP would not be required as long as you've met the development standards.

(#0362) Terri Jeffreys: An MEP might or might not include an HMP. The ordinance outlines the activity that would not require the HMP. Would all other activities, if you're applying for an HEP, require an HMP?

(#0378) Allan Borden: There's a whole subsection with a whole list of activities that require an MEP and an HMP.

(#0386) Terri Jeffreys: And they generally go hand in hand?

(#0388) Allan Borden: Right.

(#0390) Wendy Ervin: Is this a less expensive, less paper intensive means of getting something accomplished? Is the MEP an easier thing to get than a variance?

(#0400) Allan Borden: Yes, you don't need a public hearing so that cuts off about six weeks.

(#0405) Wendy Ervin: This bothered me before and I didn't say anything about it but in the paragraph before where the MEP, etc., where all these things are identified and it says 'or knowledge' and I think unless that knowledge is written down if somebody just says that they think something is there, they can block anything from happening if they just claim to have knowledge. That's the way this is written.

(#0425) Allan Borden: Not just anybody. They have to be a F&W, tribal, or local professional.

(#0430) Wendy Ervin: Even so, if you've got somebody in the F&W department who just wants to stop something from happening, he can claim to have knowledge. It seems to me it has to be recorded knowledge.

(#0438) Bob Fink: This doesn't block an action from taking place. All this does is a provision that triggers the review by a biologist who has knowledge of the site and if there are potential impacts to the protected species.

(#0445) Wendy Ervin: But the meter is running while you're getting that review and it's costing ... it's not a

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\$15.00 review so the meter running can cause somebody to find it economically not feasible just because of having to go and get this review. The way this is written, what I object to, is that the demand for the review could be spurious because it's not already recorded knowledge; it's just somebody saying it's so. Then you could get the review and find out that it's not so.

(#0470) Bob Fink: The recorded knowledge is observations by these same biologists so they could simply record it and point out that it's recorded.

(#0475) Wendy Ervin: I would be satisfied with that if it has been observed, recorded and then if somebody wants to do something and they say no, then it's recorded, like, say, there's water standing in that area in a certain volume during certain months out of the year. So now it's recorded as a wetland question.

(#0488) Bob Fink: This really wouldn't apply to wetlands. This applies to the habitat of the listed species.

(#0492) Wendy Ervin: Well, okay, so I know there's a snake den or something within a quarter of a mile of this. If he's written it down then that's written knowledge. I know that's not on the agenda for tonight but that's bothered me for a while.

(#0510) Steve Clayton: Allan, there's a discrepancy between the staff analysis and the wording in #2. In the staff analysis you bring along the part that says 'which operate these parks will request to modify or add to existing structures'. In the actual verbiage, you're saying 'new development, such as picnic or assembly structures' so that isn't adding to an existing structure; it's building a new one. So in the scenario where you're taking out a grass area or taking out a playground and putting in a covered amphitheater so if we read you're staff analysis you're saying 'add to' but the actual verbiage is different.

(#0540) Allan Borden: They couldn't build an amphitheater ... I guess you could say the amphitheater is an assembly structure. If one didn't exist there and it was just lawn it probably wouldn't be approved.

(#0550) Steve Clayton: But that's what the verbiage says; that it would be approved because it's new development of an assembly structure. By this verbiage, the only thing we're getting away from is the HMP.

(#0562) Bob Fink: It also reduces the need for a variance; a variance has a much more restrictive standard that's applied for approval. You have to show that you don't have a reasonable alternative use, as well as meet several other criteria, whereas for the permit, you don't have to meet those tests. The costs are less, \$300.00 for an MEP in association with a building permit, versus over \$1,000.00 for a variance. The HMP is whatever it costs to generate the HMP and we charge about \$300.00 just to review it. So there's substantial cost savings but it still requires a permit and still gets a review.

(#0600) Diane Edgin: Last meeting we had the gentleman here that wanted to take a concrete pad and put a permanent structure over the top. How did that end up?

(#0605) Steve Clayton: That's what this is being addressed for, I believe. For Star Lake?

(#0614) Bob Fink: You remember that Rick Mraz was here and I know he followed up the next day with the building department to try to sort it out but I didn't hear what the total outcome was.

(#0635) Steve Clayton: This was written for the Star Lake people but is it also addressed for the project at the Port of Allyn?

(#0640) Bob Fink: It would probably be applicable there.

(#0645) Tim Wing: Was that the one for the amphitheater?

(#0648) Bob Fink: They have two projects. They have a kayak park project that's actually in process and then they have another project that they've floated around from time to time which entailed an expansion of the gazebo providing covered seating in association with the existing gazebo but I've never seen a specific design for it. That's never gotten any further than inquiring about the permitting on it.

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(#0675) Allan Borden: Steve, the way the revision in the text is written is a lot more liberal than my staff analysis and my feeling is that the way the text is written right now may arouse more challenge than if we were to change it so it says 'modification or addition to existing structures such as picnic or assembly structures'; that would probably be a subset of what's currently written there. It may not be such a challenge or such an exemption of a major project being proposed, like you indicated.

(#0715) Wendy Ervin: But it says that it 'will need to meet the additional review standards of the SMP, RO, and other development standards. That looks like three hoops to jump through so even though it seems to give a carte blanche permission, it's a permission except for the fact that they have to jump through these hoops. I think that's enough restriction on it. I don't see how anybody could complain about this; you've got all these controls over whatever it is that's being done. I would propose a slight change in the wording where it says 'new development such as picnic or assembly structures is permitted and will need'; would it be appropriate to say 'but will need to meet the additional standards' instead of 'and'? Or 'be required'?

(#0775) Steve Clayton: So by inclusion as written then what we lose is the ability to have a public hearing and public oversight on a variance procedure if they were to build again? Would that be covered under the RO?

(#0785) Allan Borden: It would if it's in the shoreline management area and is considered recreational development that requires a Substantial Development Permit, it's going to require public review.

(#0792) Steve Clayton: So even as an exemption here we would still get a public review on it?

(#0800) Terri Jeffreys: Substantial development is a monetary trigger, right?

(#0802) Allan Borden: Just for docks because most every other development is worth more than \$5,000.00.

(#0812) Tim Wing: How does this impact Star Lake's request?

(#0815) Bob Fink: Their request, as I remember it, is to cover an existing picnic area ...

(#0820) Tim Wing: Which is already a concrete slab.

(#0822) Bob Fink: Right, and my understanding is that they had tried to do it but were told they needed a variance under the current regulations and it would be difficult for them to get a variance as well as more expensive. This would allow them to get it with a permit at a substantially lower cost. Also, it would make it clear that there was no requirement for an HMP, which would also be something they would have to produce as part of the variance. While it's not a complete relief for them it certainly is substantial relief.

(#0845) Tim Wing: It seems to be sensible that they would have to build a structure that wouldn't blow down and would need to pass building permit standards but everything else, nothing made sense to me. The concrete slab was already sealed to the ground there and I couldn't see how it would have any impact on habitat. What would they have to do now? Just get a building permit?

(#0865) Bob Fink: This would still require an MEP so it would be an administrative approval and there would be an additional fee of \$300.00.

(#0870) Tim Wing: And why would that be?

(#0872) Bob Fink: It's because it's in a critical area that this activity is happening and it is a structure.

(#0880) Diane Edgin: I think he also had an issue with the valuation.

(#0895) Wendy Ervin: If I recall it was way over the cost of the structure.

(#0915) Tim Wing: The point that is being addressed here is that that slab was already there and they're really

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not changing much. They do need to build a structure that won't fall down so the \$300.00 fee I don't have much heartburn about.

(#0925) Steve Clayton: This gets them out of the variance process.

(#0945) Allan Borden: I don't know if you want to keep it as is or review the scope of what's been proposed here on the third line of #2.

(#0960) Steve Clayton: What are staff's thoughts? Are you comfortable with the way it is? Or do you want to limit it to modify existing structures?

(#0972) Tim Wing: I don't understand the two proposals.

(#0975) Allan Borden: The way it's written here is they could convert a 100 foot grassy area to a building. The way I'm proposing it is if you have a ramada or a picnic table you could just add on to that or modify it; you couldn't create a new development.

(#0996) Steve Clayton: My question came up because we have a discrepancy between what the verbiage said here and the way it was actually written. We ought to acknowledge there's a difference and then make a decision on which way to go. Here it says we're looking to do it based on modifying existing structures then we should write it that way. If we're saying we want to do it for any new development, too, then that's the way it's written.

(#1010) Tim Wing: This is strictly limited to parks and recreational uses?

(#1015) Allan Borden: That's right. Areas maintained as existing developed use for parks and community recreational land use.

(#1022) Tim Wing: So they would have to get a permit so it wouldn't blow down and what is the other \$300.00 fee for?

(#1025) Bob Fink: It's for the environmental review.

(#1028) Tim Wing: So it would have an environmental review. Let's say it's a grassy area that has some ducks laying eggs in it. You wouldn't permit that, would you?

(#1035) Bob Fink: I would say the original intent, from the example that came up, would be addressed through either of these languages. I think Allan's original intent was to limit it to areas that were already paved or have an existing shelter they want to expand or an existing paved picnic area they wanted to expand and not necessarily simply a lawn that now they want to build shelter for. That was the original intent. The language he crafted actually appears to be a little broader than that and that was the question that Steve raised. So our intent was limited to where there is an existing structure already and they want to simply expand that structure or roof an existing platform.

(#1066) Terri Jeffreys: But then you could go back the other way around and say you've got a grassy knoll and you want to put in a covered picnic area then you can't do that.

(#1072) Bob Fink: It's kind of like the issue you looked at last month. We're trying to allow reasonable use of an area that's already disturbed and impacted without excessive review or difficulty for the property owner or applicant. We're trying to find where the envelope is that things can be allowed that aren't going to have unintended consequences to the environment. Like if you're putting a roof on a picnic shelter it may get more use in inclement weather but in inclement weather people are going to tend not to use the rest of the park as much either. Even though it may get a little bit more use the impact of people away from the shelter probably wouldn't be much treater.

(#1125) Terri Jeffreys: Except you're adding impervious surface.

(#1130) Bob Fink: But if you're adding shelter where there is no shelter now presumably you're expecting

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more people to use the facility that don't use it now.

(#1138) Wendy Ervin: Except if this is a community recreation use you're never going to expect much more than the community to be using it so it is self limiting.

(#1148) Bob Fink: Right, for community parks they typically are limited to community activities. If it's a public or county park that would be different.

(#1160) Tim Wing: A point that I think is important is that we're talking about a very, very small percentage of waterfront and we're trying to focus use in that very small amount and the more we can make it easy to use that and get people to focus in that one area the less impact it has on other areas. I think I'd like to leave it in the more liberal approach. I think it's a good idea to create the most useful facilities possible in these areas because it encourages concentrated use in a very small part of our shorelines. So I would be in favor of leaving it like this.

(#1190) Bob Fink: There are other goals besides protecting the environment. Having public access to shorelines is one of them. This would certainly promote that.

(#1200) Wendy Ervin: What is the definition of the word 'developed' in this context?

(#1220) Allan Borden: It's improvements have been made to facilitate the land use.

(#1228) Bob Fink: Improved land is land that has been cleared. This gets back to the difference between the narrative and the actual language that you proposed is if you want to restrict development to areas that are improved then you need to define the scope of what you mean by improvement. Do you mean simply cleared and grassy or do you mean an area that's been paved or has a concrete pad. It's a legitimate question. We tried to do the same thing last month with defining that developed area that people were free to operate under certain perimeters within that area that was already impacted. It's the same concept here. It should be described in some way because the word 'development' is a very broad term because any change is development under the general definition.

(#1275) Diane Edgin: Allan, didn't you say there was a square footage limitation on this section?

(#1280) Allan Borden: No.

(#1282) Wendy Ervin: But the SMP, RO, and other development ordinances would certainly have a square foot restriction.

(#1290) Allan Borden: You would refer back to the new F.2. section, Maintenance and use in existing landscaped areas within the buffer.

(#1300) Bob Fink: In that case, the answer is it would include a lawn.

(#1305) Terri Jeffreys: I'd like to move that we approve the amended version of G.2.f.2., striking in the third line the last word 'will' and fourth line the first word 'need' and replace with 'are required'.

(#1325) Wendy Ervin: I second that motion.

(#1330) Steve Clayton: We have a motion and a second. Any further discussion?

(#1335) Tim Wing: Is that the intent of what was written in the first place?

(#1338) Bob Fink: That's our intent.

(#1340) Wendy Ervin: My intent in that is somebody who comes by and says this says 'new development' but you can show them it also says 'are required'.

(#1350) Steve Clayton: Darren, are you okay with that new verbiage?

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(#1370) Darren Nienaber: That new wording is helpful.

(#1385) Steve Clayton: Okay, any further discussion? All in favor? Opposed? Motion passes. On to item #3.

(#1405) Allan Borden: The next topic is on Title 16 Plats and Subdivisions; it's basically two sections. One having to do with Boundary Line Adjustments and the other one is Lot Combinations. The first revision is under BLA's and it's mainly to make sure that all of the requirements that are listed from a) to d) apply to all BLA's; not just ones that are covered by the struck out language. This is mainly for clarification purposes. The reason for that is that there were other kinds of BLA's that were not in a short subdivision, subdivision or platted division where it was asked from county staff whether the four requirements applied. They did indeed apply so just to avoid any further confusion that language is struck out.

(#1450) Bob Fink: That's consistent with how it's been applied in the past. This is no change in the way it's being applied; it's simply clarifying the language.

(#1475) Diane Edgin: I make a motion that we accept the changes.

(#1478) Wendy Ervin: I second the motion.

(#1480) Allan Borden: There's one more change on page 3.

(#1484) Diane Edgin: My motion was just for the changes in the BLA's.

(#1488) Steve Clayton: The second change is also for the BLA's.

(#1500) Wendy Ervin: I read this and I read it again and then I thought if you've got three parcels and you're making a BLA you can't do it any other way other than you're taking one lot and making the BLA between the three lots. If you're only making it between two of the lots and leaving one alone then you're not making a three lot adjustment. So I really don't see why this wording is necessary at all. I think it says something that is entirely logical and couldn't be any other way.

(#1545) Bob Fink: Allan, could you state what the intent of this is?

(#1548) Allan Borden: I'll show you on the board. *(Allan draws picture on board)*.

(#1585) Wendy Ervin: And that's entirely logical and your language says that two is split and part of it goes to three and part of it goes to one; that's what your language says. But how could it be anything else? How can you have a BLA where you have three lots where you're combining into two ...

(#1600) Allan Borden: *(Allan demonstrates on board)*. You would have to make these separate tracts.

(#1610) Wendy Ervin: No, because then that wouldn't be a BLA of three lots.

(#1615) Bob Fink: It's my understanding this is what we've been doing. Do you know why exactly this clarification was called for, Allan?

(#1618) Tim Wing: And who wrote it or proposed it? I'll show you what he's trying to do. *(Tim demonstrates on board)*.

(#1655) Bob Fink: What Tim drew would require a BLA and not a Parcel Combination. What Allan drew we would define that as a Parcel Combination. It's a matter of process and costs. Parcel combinations because you're dealing with existing lots and you're simply adding to them in all cases, or combining them altogether, you receive much less review than with a BLA. We have to review not BLA's to assure that there's some developable area that meets the standards. We don't want people doing BLA's and creating situations where now they have to get a variance over here and before they didn't need a variance. So we

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don't people to have self created problems where they have to get variances or waivers from the health department code in order to build when they didn't need to do that earlier. In this case that's not going to happen. With most of these you have to do a site by site review. Let's say all the developable are is all down here and then suddenly you move this line and this is all wetland from here to here or all not buildable land without some waiver or variance and that's what you have to determine. That's why the BLA gets a different level of review than the parcel combination. There were people arguing that they were combining parcels and can't they just do it as a parcel combination. That's exactly why. This keeps intact the original parcels. We're trying to distinguish a parcel combination from a BLA.

(#1800) Wendy Ervin: Say I have two lots side by side and one was owned by myself and one was owned by my sister and there was so much slope on her side that in order to fit a house and a septic system on it you have to sell these two lots together so by combining them you had one developable parcel but separately neither parcel could be used.

(#1835) Bob Fink: That's often the case and that's often why people do combine them. Sometimes they just want a larger lot but sometimes they do it because maybe half of one lot wasn't developable but the other one was.

(#1855) Wendy Ervin: Do you think a description of this is necessary or ... not the language specifically but do you think a description of this kind of change is necessary and then maybe we can work on the language?

(#1870) Bob Fink: Yes, I think the concept there is to distinguish a parcel combination from other types of BLA's. In a parcel combination the resulting lots are always the sum of an original lot plus some portion of some other lot. So that all the final lots, or at least one original lot plus something else. I don't know exactly what the best language is for that but that's the concept. The reason why we're doing this is because some people, either to save a few dollars or to save some time, are pushing and asking why can't they do this.

(#1900) Wendy Ervin: Then wouldn't it make it easier if there was just a definition incorporated for a BLA and a definition for Lot Combination?

(#1915) Bob Fink: A BLA is defined in this section. The lot combination is a type of BLA. But it is a distinction we're trying to make and we're trying to do that so we can do a lesser review on the lot combinations.

(#1975) Terri Jeffreys: You could just put in the language 'When a BLA involves three or more lots / parcels where a lot or parcel combination is proposed, each final lot / parcel resulting from the proposed BLA must retain sufficient buildable land as per Mason County DR's and setbacks'.

(#2000) Wendy Ervin: Right, because retaining it's original land area plus the additional land ... what else is it going to retain?

(#2050) Steve Clayton: If you look back on page 3 under definition of a BLA it already addresses what you're trying to not allow.

(#2070) Bob Fink: Right. The BLA makes this buildable and we can make sure people aren't creating problems.

(#2080) Tim Wing: But it's a more onerous process and costs more but it has a purpose and you don't want to apply those hurdles and costs if it's unnecessary.

(#2090) Bob Fink: Right. So we're trying to keep the distinction between the two processes but as currently described lot combinations say that they shall be into a single lot and I think we want to allow people to combine them with more than two lots with this kind of division process.

(#2100) Steve Clayton: If we're looking to address this, then instead of in that verbiage using 'BLA' use the words 'Lot Combination'. Then it fits in the text and it fits in the header.

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(#2165) Bob Fink: That's right.

(#2175) Tim Wing: It's understood that there is a boundary line change when you do a lot combination. I agree with Steve.

(#2188) Bob Fink: I would say 'A lot combination can involve' instead of 'When a lot combination involves'... The first paragraph deals with combining them into a single tract so the end result of the first one is always one parcel and what we're trying to do is allow the end result to be more than one parcel. The first case is one parcel and the second case if you start with three or more you can end up with two or more parcels provided that each parcel is describable as one of the original parcels plus additional land from one of the parcels that no longer exists.

(#2225) Tim Wing: Do you want to revise that and bring it back to us?

(#2240) Bob Fink: We'll work on that while you go onto the next item.

(#2255) Steve Clayton: So item #4 is Change of Use of Nonconforming Uses.

(#2265) Allan Borden: This proposed revision involves the DR section on nonconforming uses. There's actually two sets of changes. The first set is to clarify which previous use the new use can be. Either equal to or lesser intensity. We had a situation where a piece of property had at least three previous uses, all nonconforming. The person wanted to skip the previous land use which was a parking lot and wanted to go to one that was older than that which was a mobile home sales. Since we didn't have that provision there wasn't a distinguishing provision not to allow something like that so now we have a mobile home sales in the county as a nonconforming use so that was one of the chief reason for distinguishing that it had to be the immediate previous use.

(#2340) Wendy Ervin: What was it currently being used as when the application was made?

(#2345) Allan Borden: A parking lot for a timber company who's operation was offsite.

(#2360) Terri Jeffreys: And that was a nonconforming use as well?

(#2364) Allan Borden: Yes, because it's in rural residential.

(#2385) Terri Jeffreys: How did you come up with the ten year period?

(#2390) Allan Borden: I guess it was kind of a figure that was reasonable in length; one year was far too less, five years might have been too short of a time period so we choose ten to allow a period of time in which land uses could have changed.

(#2405) Wendy Ervin: At the time that the application or the desire to change the use is made the land is in current use and so the language says to me ... the want to change it so they've got activity c) going on on this land and they want to change it and it's nonconforming and they want to change it to some other nonconforming use and you're saying ... what this language to me says is that the one that governs what can be done is the immediate previous use so we're currently in activity c) going on so it's activity b) that governs.

(#2470) Allan Borden: Remember this is under the section 'Change of Use' so c) is the change of use; you have to go back to b).

(#2472) Wendy Ervin: I'm saying today we're doing c) and now we're making an application to change the use; I want now to go to d) and I want d) to be whatever I want d) to be but you're saying that what governs my choice of use is b).

(#2490) Allan Borden: No, it's c).

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(#2492) Wendy Ervin: No, because that is current. That's my interpretation. If I'm coming downtown to argue with you ...

(#2505) Terri Jeffreys: Look at the first line, 'The new use is of equal or lesser intensity than the immediate previous use'; so the new use is the proposed use and then the 'equal or lesser intensity than the immediate previous use' which is your current use.

(#2520) Wendy Ervin: I can do all this arguing but I'm using it today for c) and I'm proposing d).

(#2522) Tim Wing: I'm having trouble with you a, b, c's. The parking lot is what it is now, which is the current use.

(#2528) Wendy Ervin: That would be c); today, currently I'm using it for a parking lot. And it's nonconforming but I'm using it for a parking lot. I want to go to mobile home sales.

(#2540) Tim Wing: You could do another parking lot or you can go to another use that has no more impact on the immediate area. Correct?

(#2550) Allan Borden: Right.

(#2555) Tim Wing: But you can't go back and say you want to open a mobile home shop because it has more impact on the area and it's not the current use. Correct?

(#2558) Allan Borden: It's more intense than the current use.

(#2560) Wendy Ervin: What I'm saying is your words say 'immediate previous use' and to me my definition if I'm arguing says the 'immediate previous' because this is the current use ... you're words don't say what you want them to say.

(#2575) Allan Borden: You're misinterpreting the whole concept.

(#2580) Wendy Ervin: I'm deliberately misinterpreting it because I'm down here arguing with somebody from the county and I want to give them a hard time. Your wording isn't clear and it gives me a wide opening for me to argue.

(#2595) Allan Borden: Typically a change of use occurs on a structure or an area that is not currently being used.

(#2600) Tim Wing: Okay, so the parking lot closed and not being used as a parking lot right now and somebody wants to open a mobile home sales but the immediate previous use is the parking lot and she's saying it's questionable whether somebody might want to come in and argue that the real immediate previous use was the mobile home park.

(#2622) Wendy Ervin: Well, he had said it was being used as a parking lot. To me that's a current, not a previous use.

(#2628) Steve Clayton: Would 'most current' work instead of 'immediate previous'?

(#2648) Allan Borden: The most current use is that it's vacant.

(#2652) Wendy Ervin: But you can't count on the most current use being vacant.

(#2655) Steve Clayton: Would 'most current use' fit?

(#2700) Darren Nienaber: It's hard to follow that paragraph. Can it be combined into two sentences instead of one. There's a reference to the immediate previous use and if that's the use that's going to be the standard then why refer back to the ten year period? What is your goal?

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(#2730) Allan Borden: We could end it at the end of the 'Figure 1.03.034' as one sentence. Then you would want to say that 'An applicant may apply for a Special Use Permit for another use' ...

(#2770) Darren Nienaber: Could you have a subsection ... is the purpose of the SUP when you go back to the ten year period? So you're saying you have to be equal or less than the most immediately previous use or you can go back ten years but you have to do that by a SUP?

(#2790) Allan Borden: That's what I intended.

(#2800) Darren Nienaber: How about you add a 3) along with the 1) and 2). As the third alternative.

(#2810) Steve Clayton: On the second alternative he's misnumbered it. It should also be 1.05.018. The difference between these two sections in part is that the first one applies to the land and the second one is for land or a structure. Maybe we should give you some guidance on what direction that we're pointed at before you go through and reword it.

(#2884) Allan Borden: The reason why I presented that was basically A) and B) was saying the same thing.

(#2892) Tim Wing: Are suggesting that we have a choice between these two?

(#2895) Allan Borden: Right.

(#2898) Wendy Ervin: Are you just inserting 'or a structure' in order to eliminate a duplication of wording?

(#2900) Allan Borden: Right.

(#2902) Wendy Ervin: I like that.

(#2906) Allan Borden: If you read A) and then B) plus 1) it says the same thing.

(#2915) Terri Jeffreys: Say you have a structure that didn't quite make it inside the RAC then that structure is no longer ... if it hadn't been used in ten years then you decided to sell it, if it wasn't used over that ten year period then a SUP wouldn't even be doable.

(#2940) Allan Borden: Actually, no. If a nonconforming use is abandoned for two years it's gone.

(#2990) Steve Clayton: There is a bit more significance difference between the two different sections. You described a parking lot that went to an RV sales and in the first section there it would not be allowed. You can't go back ten years because that's the use of the land. In section B) you could go back but that's the use of a structure; for a parking lot or RV sales you're not using a structure, you're using land. So it would not fit the exemption. The way you formed in the latter section, you're changing use of the land and that is able to go back ten years.

(#3030) Terri Jeffreys: So one has to do with just the land itself and the other one has do if there's a structure on it?

(#3055) Steve Clayton: Both of them have to do with the change of use of a structure. In the first section we're not dealing with the change of use of the land; we're not allowing change of use in the first one. The way the second one is worded you can change the use of the land, parking lot, RV sales, etc., so which direction do you want to go.

(#3090) Allan Borden: I thought this might be the simpler language but I think you're right. Clearly A) is about use of the land and B) is use of the structure.

(#3100) Steve Clayton: In our current ordinances you can change the structure's use but you can't change the land's use so we're looking at making a significant change in our current ordinances.

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(#3120) Allan Borden: That's right.

(#3124) Tim Wing: What would be examples of the use of land being changed?

(#3135) Bob Fink: Storage of goods; staging areas.

(#3140) Tim Wing: I don't have any problem with changing the use of the land provided it meets these other issues; that it doesn't have any more impact on the area.

(#3155) Wendy Ervin: Right, because you're not talking about changing it from a land use designation, are you?

(#3180) Tim Wing: No, because that's a whole other set of criteria that they'd have to go through; that would be a zoning change. So I don't see any problem with using this second version and scraping the first part.

(#3195) Darren Nienaber: This is what I've done to the second one. Just going on subsection #2, going all the way down to 'Figure 1.02.034'. Now ignore all the rest because I've reworded it. You'd add a new subsection #3, which says, 'By SUP, the new use is equal or lesser intensity than any prior use in the ten year period preceding the date of the application for said SUP'.

(#3270) Wendy Ervin: I think you could just end it with a period after 'application'.

(#3272) Darren Nienaber: Yes, I agree.

(#3275) Tim Wing: So if they go with a SUP they get to go back ten years?

(#3280) Darren Nienaber: That's right.

(#3285) Tim Wing: And they don't have to match a use; they just have to be less intensive than any of the previous uses.

(#3290) Darren Nienaber: That's right.

(#3295) Terri Jeffreys: What do you base the less intensive on?

(#3398) Darren Nienaber: It's based on a chart.

(#3310) Steve Clayton: It's a couple of pages back under the matrix; Land Use Classifications.

(#3315) Tim Wing: I don't have any problem with that proposal.

(#3325) Wendy Ervin: I accept Darren's wording for #3 and his stopping #2 after 'Figure 1.02.034', but I would make the change that 'immediate previous use' that it would be 'most current use'. Then I make the motion that those changes be incorporated.

(#3365) Tim Wing: What if the land is not in use right now?

(#3365) Wendy Ervin: Then it's the most current use because if it's not in use it's not used.

(#3372) Bob Fink: We're dealing with a nonconforming use; vacant land is not nonconforming. If there was a previous nonconforming use that hasn't been used for long enough then that previous use was abandoned.

(#3385) Wendy Ervin: Then you'd have to have a conforming use on that land and then this whole thing doesn't apply.

(#3388) Bob Fink: Right.

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(#3400) Tim Wing: So if somebody has a lumber yard and it closes and is still sitting there as a lumber yard and I get a chance to sell it or lease it and after four months of non use Lumbermans wants to lease it or buy it. Is it in nonuse?

(#3420) Bob Fink: Abandonment is defined just above. 'If any nonconforming use of land or buildings is abandoned or ceases for any reason whatsoever for a period of two years or more then any future use of such land shall conform with the provisions of this ordinance'. So it's a two year abandonment plus a one year extension. That's in 1.05.016.

(#3462) Tim Wing: So that would still fall under your wording of current use?

(#3475) Wendy Ervin: Yes.

(#3478) Tim Wing: I'm okay with that.

(#3485) Steve Clayton: Are you comfortable with land and structure that we're talking about in the second section?

(#3495) Bob Fink: Yes, I think it's a good addition.

(#3515) Terri Jeffreys: I'm trying to figure out all the ramifications regarding this because we have so many nonconforming uses in this county for one reason or another have been abandoned so after two years something out in rural residential and if it had closed down and not been operating as a business for two plus one year then it reverts back to rural residential, correct?

(#3545) Bob Fink: If it's zoned rural residential and it was nonconforming then they've abandoned it if they've stopped activity for two plus one year.

(#0120) Steve Clayton: On the verbiage and considering the abandonment issue; the way Darren has split off #3, that we can go back ten years and use, does that supercede the abandonment issue of two years?

(#0135) Bob Fink: Since you're talking about a nonconforming use and you want this ten year reach back to apply it probably should be clarified. If you're talking about the preceding use; it's pretty clear when you've had continuous use. What happens when it's been three or four years but you have a provision that allows you to reach back ten years, then can you apply that SUP provision? Technically you don't have a nonconforming use because the nonconforming use has been abandoned altogether. So you need to be explicit if you want to allow them to reach back ten years, even though they've abandoned their nonconforming use, then you'd have to say that explicitly.

(#0170) Wendy Ervin: But since the new use is of equal or lesser intensity then it seem to me it's relatively harmless to let them go back ten years because you're still restricted to equal or lesser intensity.

(#0182) Allan Borden: That's not necessarily true because those three are separated by 'ors'; not 'ands'.

(#0188) Bob Fink: Here's an example of where it's not necessarily harmless and why the SUP is appropriate. Let's say nine years ago a saw mill closed down and since that time people have build twenty houses in the immediate vicinity and now that the saw mill is closed and hasn't been there for nine years and they built out that area and then suddenly someone wants to reopen the saw mill. Those people didn't expect that use to happen and it may not be compatible. Now maybe the saw mill can control their noise and their operation and is not a bad neighbor, that can be determined through the SUP process. Can they operate as a good neighbor, or through a rezone process they could be zoned as an industrial use because there's enough space between them and the neighborhood for them to develop. In either of those approaches there's a public review and there's a chance to evaluate that question. It's not unreasonable to allow it with a SUP but you need that kind of review to be able to go back.

(#0230) Terri Jeffreys: But if it's been abandoned then you can't go through the SUP.

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(#0234) Bob Fink: Right, if it's been abandoned altogether.

(#0236) Terri Jeffreys: So a three year period where a saw mill sits vacant, it's now abandoned ... now you've got about 50 acres of land that is treed, maybe a hundred million structures on it, and you've got an unsaleable piece of land because you can't use it for a saw mill and I don't know who wants to go into the cleanup effort to make it a residential lot.

(#0247) Bob Fink: If they were that big and they were in operation more than three years ago they were probably in operation in 1990 and they probably should have been zoned as a rural industrial and they could still apply for that.

(#0255) Tim Wing: What I'm hearing you say is if we leave it in here so that it could go back ten years and find a use that is similar they are also having to get a SUP and they also have to go through other hoops that would protect nearby new homes, if there were some, so I don't see any problem with allowing that.

(#0270) Bob Fink: Maybe I misunderstood the question but as I understand the language that was proposed, abandoned uses aren't nonconforming and if it's simply been abandoned it's the same as if it were not developed and you can't go back nine years and resurrect something that was there before.

(#0300) Diane Edgin: I've known several people who have purposely closed down, moth balled their business, leave the country for a couple of years, and then come back and want to reopen it. They haven't necessarily gone out of business. This is not an abandoned business and there's a big difference in the terminology there. How does the law apply to them?

(#0335) Allan Borden: They should be aware of the zoning in the county and if that's the situation they should notify the county that they're going out of town for a period of time.

(#0345) Tim Wing: Are you saying the county would say that's okay; that it's still a continuous of your business?

(#0350) Bob Fink: I'm not very familiar with the law on continuing nonconforming uses in the sense of whether it's abandoned or not.

(#0355) Darren Nienaber: The case law is pretty ambiguous.

(#0360) Bob Fink: Well, what is abandonment? If you're maintaining the property, if your equipment is there, if you start up your business once a year ...

(#0380) Tim Wing: What if somebody does shut his business down but four years later changes his mind and starts it up again. Now it's four years later and says it was really in moth balls.

(#0390) Bob Fink: There should be some effort to offer a business to keep it alive.

(#0410) Terri Jeffreys: What if the Bronze Works would have not sold as quickly as it did? What if Bronze Works would have been on the market for four years ... that is a nonconforming use, right?

(#0415) Allan Borden: Right, and they came within months of going the two years.

(#0420) Terri Jeffreys: Would all those buildings have had to revert back to rural residential?

(#0422) Allan Borden: I guess so.

(#0425) Steve Clayton: They could have gone for a rezone.

(#0500) Terri Jeffreys: Do the SUP's go before the Hearing Examiner?

(#0520) Allan Borden: Yes.

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(#0525) Terri Jeffreys: Do they look at the structures on the property and the nature of the previous businesses? The use of the property?

(#0555) Allan Borden: Yes.

(#0560) Wendy Ervin: Is a portion of the consideration for a SUP is what does this do for the community?

(#0566) Bob Fink: There are standard conditions for a SUP. The criteria is in section 1.05.040 and it asks that the proposal will not be detrimental to public health, safety and welfare; that it is consistent and compatible with the intent of the Comp Plan; will not introduce hazardous conditions to that site that cannot be mitigated; the proposal is served by adequate public facilities that are in place or planned; it will not have significant impacts on existing uses on adjacent lands; and if located outside the UGA, the proposal will not result in the need to extend urban services.

(#0600) Tim Wing: I don't see any problem with this because there's three criteria here: that it conforms; that it's less dense than the previous use; and the third one has to meet the SUP.

(#0630) Steve Clayton: So we're looking at recommending approval of the second section there and replacing the words 'immediate previous' with 'most current'; and adding a #3 with the language that Darren had said recognizing the SUP process.

(#0644) Tim Wing: I will second Wendy's motion.

(#0646) Steve Clayton: We have a motion and a second. Any further discussion? All in favor? Opposed? Motion passes. We still have rewording on #3 to look at next. So we're looking at item #3 on the agenda regarding Lot Combinations. Has everybody looked at Bob's proposed language? Does it work for you, Darren?

(#0730) Darren Nienaber: It looks alright.

(#0740) Steve Clayton: First, we have a motion and a second on the table for .040. All in favor? Opposed? Motion passes.

(#0765) Tim Wing: I move we accept the new proposed language prepared by Bob Fink.

(#0777) Bob Fink: For the record, I'll read that revised language. 'A lot combination may also be the combination of three or more lots and result in more than one lot provided that each resulting lot can be described as the entirety of one or more of the original lots plus some portion of one or more of the other original lots. These lot combinations shall also not be effective until they meet requirements a), b) and c) as specified above in this section'.

(#0798) Diane Edgin: I'll second Tim's motion.

(#0800) Steve Clayton: We have a motion and a second. Any further discussion? All in favor? Opposed? Motion passes. Allan, on to item #5.

(#0815) Allan Borden: The changes in #5, the situation is that the PAC has already reviewed the recommendations on the Belfair UGA Plan and it is expected that within the next twelve months you will hear from Allyn and Shelton as well. Once these plans go through the whole public process and are adopted by the BOCC their will be some development standards that currently existing in the DR's that need to be cross referenced. They will no longer apply in whatever adopted UGA that gets approved. What I have tonight is changes that you can review and make recommendations on with the idea that once the BOCC adopt the Belfair UGA Plan that these changes in the current DR's would go into effect. We've added a sentence about the matrix 'note that the public should consult the specific adopted urban growth area plan for land use designation as permitted or prohibited'. I've framed these changes so that they will once again apply to Allyn and Shelton whenever those plans are adopted. In the intervening time, and Belfair gets adopted, and Allyn and Shelton don't then those two areas that don't have adopted plans will utilize the DR's.

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(#0900) Darren Nienaber: Shouldn't it say 'urban growth area plan AND DEVELOPMENT REGULATIONS'?

(#0910) Allan Borden: Yes, you're right.

(#0915) Tim Wing: The other two or three places in this item #5 are essentially doing the same thing?

(#0925) Allan Borden: Yes, that's correct. Just past page 7 in the staff report is an example of how that would show up in the DR's.

(#0992) Tim Wing: On that same page do we also need to amend the headers at the top of the page?

(#0995) Allan Borden: Yes, every case where it says 'urban growth area plan' it should say 'and development regulations'.

(#1020) Wendy Ervin: Can we just make a motion that in all areas where it says 'urban growth area plan' that the words 'and development regulations' be inserted? Okay, I'll make that motion.

(#1050) Tim Wing: I'll second that motion.

(#1100) Steve Clayton: We have a motion and a second. Any further discussion? All in favor? Opposed? Motion passes. The question I had is we're also deleting the Belfair Plan from our Comp Plan but it doesn't appear that we're deleting all of the Belfair Plan. The example you gave here as on page III-2.2, we're adjusting BUGA 1 to label it for 2004 and we're keeping several of the Belfair provisions but we're deleting two pages later the entire Village Plan.

(#1175) Allan Borden: I offer these for discussion. Basically my premise for deleting so many of the sections from Chapter III-2.4 and forward is to have the urban area plan provide all these planning policies. It's self contained.

(#1200) Steve Clayton: Right, so the new Belfair Plan is supposed to supercede the Village Plan ...

(#1205) Allan Borden: If you think this is too far reaching to do this massive of a strike out ...

(#1212) Darren Nienaber: I thought you already had a motion that when you were all done with your Belfair Plan review that it basically said that the Belfair Plan replace anything to the contrary in the Comp Plan. We made a big point of doing that.

(#1222) Steve Clayton: Right, we did.

(#1224) Darren Nienaber: I thought all these strike outs were already done. You could do a clarifying motion here but at least in term of all the strike outs propose I thought that was already done.

(#1230) Steve Clayton: If we're going to follow that tract then we'll need to strike out more here that Allan has retained.

(#1238) Bob Fink: I think that's why an explicit draft, since we have time to address it, is better than relying on the general language. There's a couple of sections here that maybe shouldn't be stricken because I don't think there's anything in the Belfair Plan that really addresses them. I think some of this transitional language regarding the requirement of a pipe plan goes a little beyond what is required in the text of the zoning code for Belfair.

(#1280) Tim Wing: Do you want to go over this and bring it back to us when you've figured out what you think we ought to do.

(#1286) Bob Fink: Yes, why don't we bring it back to you because this is a little more complicated. We need to be sure that it's addressed completely.

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(#1300) Allan Borden: I brought this to you to sort of position you when the Belfair Urban Area Plan comes up for hearing that not only are they adopting the plan but modifying the Comp Plan Policies.

(#1315) Bob Fink: There is a lot here and I don't think we'll be able to cover it tonight. There's no testimony on this so we'll come back to you next month with the recommendations.

(#1355) Allan Borden: Did you pass the motion on the DR's?

(#1360) Wendy Ervin: I made the motion and Tim Wing seconded it and the motion passed.

(#1372) Tim Wing: To insert the language but we didn't really move to adopt the changes. I move that we adopt the changes as amended.

(#1385) Steve Clayton: That's staff's recommendations as they carried through on pages 6 and 7 and the two tables.

(#1400) Diane Edgin: I'll second Tim's motion.

(#1405) Steve Clayton: We have a motion and a second. Any further discussion? All in favor? Opposed? Motion passes. The last section is regarding the urban growth area plan and staff will bring that back to us next month.

(#1414) Wendy Ervin: On this matrix of uses how does VanBuskirk's land fit into this? Under the UGA's it specifically does not have an 'X' for agricultural buildings and agricultural crops; orchards.

(#1420) Bob Fink: Aren't you deleting all of that?

(#1435) Tim Wing: The matrix is for the county in general so the sub-area plan for Belfair addresses what happens on his property.

(#1440) Bob Fink: Allan, isn't it a fact that the changes you mean to show in the matrix is such that the regulations that will apply in Belfair are the ones in the zoning code rather than the matrix?

(#1445) Allan Borden: Yes, that's correct.

(#1455) Bob Fink: We'll look at that because it was the intent was that the matrix wouldn't apply in Belfair but the Belfair zoning code would. It may not be clear. I have one piece of business before you adjourn. In response to a resolution passed by the BOCC, it was passed to establish a Mason County Trails Committee to look at recreational trails in the county and as part of the resolution they've asked the PAC to appoint a liaison. The liaison would be able to come to committee meetings and be able to relate what was going on with the committee to the PAC so when the recommendations came out of the committee then the PAC would be informed and better able to address them. They could also feed information and experience from the PAC to the trails committee as they were doing their work so it would work both ways.

(#1555) Steve Clayton: Do we have any volunteers?

(#1600) Terri Jeffreys: Do we know how often they'll be meeting.

(#1610) Wendy Ervin: They said probably twice a month.

(#1625) Steve Clayton: If nobody else wants to, I'll do it.

(#1638) Wendy Ervin: Maybe we could also choose an alternate to go to some meetings.

(#1675) Tim Wing: I make a motion that Steve be our tentative representative from the PAC for the trails committee.

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(#1678) Terri Jeffreys: I second that motion, however, I'd like to amend the motion that there be a list of names of alternates.

(#1685) Steve Clayton: Our next meeting is October 18th.

Meeting adjourned.