

MASON COUNTY PLANNING ADVISORY COMMISSION

Minutes December 14, 2004

(Note audio tape (#2) dated December 14, 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 Chair Bill Dewey at 6:00 p.m.

2. ROLL CALL

Members Present: Bill Dewey, Steve Clayton, Wendy Ervin, Terri Jeffreys, Tim Wing, and Mark Drain.

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

3. APPROVAL OF MINUTES

The minutes from the July 19, 2004, September 20, 2004 and October 18, 2004 were approved as presented with the following changes:

July 19, 2004:

On page 20 under (#2395) it should read: ... 'difficult to manage'.

On page 29 under (#1400) it should read: ... 'are small and inexpensive'.

September 20, 2004:

On page 2 under (#0425) it should read: ... 'Not just anybody'.

On page 7 under (#1500) it should read: ... 'and then I thought' ...

October 18, 2004:

On page 5 under (#1300) it should read: ... 'The Total Costs and the Total Funding are both \$1,712,000.00, and it looks like the Loans and the Rates are \$1,712,000.00' ...

On page 16 under (#0782) it should read: ... 'in Hood Canal are systemic' ...

4. NEW BUSINESS

(#0365) Bill Dewey: Let's address the January and February dates for the next meetings that we have problems with.

(#0390) Bob Fink: We did some checking and we have problems with using this room on those dates. For January normally the meeting would be the 17th but that's a holiday. The date that was selected previously on

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January 18th this room isn't available. When this room would be available would be on Wednesday, the 19th, Thursday, the 20th, or Monday the 24th. We could select either one of those dates.

(#0400) *Miscellaneous discussion of dates available.*

(#0428) Bill Dewey: So it sounds like the 24th will work for most everyone.

(#0430) Bob Fink: Then for February, the 21st would normally be the meeting date but that's also a holiday. We had rescheduled it for the 15th but this room isn't available on that date. Dates that are available are Wednesday, the 16th, Thursday, the 17th, and the following Wednesday and Thursday, the 23rd and the 24th or Monday the 28th.

(#0450) *Miscellaneous discussion.*

(#0500) Bill Dewey: So we've decided on February the 17th for the February meeting. So we have the dates adjusted for the January and February meetings so let's move onto the next item on our agenda and have our workshop.

(#0540) Allan Borden: You received the proposed amendments in the mail. I will hand out a summary that adds a little more context to why the department is proposing these changes. The BOCC, when they were reviewing our rezone requests in March of this year, had requested that the DCD prepare a review process for reviewing existing, undeveloped plats so that they could better meet the current development standards. In this rezone request that was reviewed by the PAC was an old plat that had 57 lots on 81 acres that was passed in 1931 and the lots were arranged around an open water wetland that was called Clear Lake. Each of the lots had a frontage of 50 feet along the wetland and had various lengths at the other end but most of the lots were 800 to 1000 feet long so you had this very narrow lot and went for a great distance. It might have been suitable for residential development in 1931 but as you got to the latter part of the 20th century even 50 feet was not really large enough to put a nice house on with a decent footprint and have a little space from your neighbor. Each of the lots would probably have to lop off 5 feet on each side so you'd have a house that's no larger than 35' to 38' wide, including roof overhangs. Development on such lots, as configured in the recorded plat, would find difficulty in meeting the present standards in both the DR's and RO. Most likely the developer of those lots would have to request variances to propose a reasonable development. Maybe some of the potential buyers of those lots would buy several lots and through BLA's or Lot Combinations could propose a lot that would be large enough so that they wouldn't have to request a variance. So the BOCC asked the DCD to propose some review process to help redesign these old plats so that they would meet the current DR's and try to preserve as many of the rights that they were vested at the time the plat was approved. That's what we tried to do here. What you have before you is a draft version of what the department has worked on and we figured an appropriate place to put this set of standards for redesigning would be in the DR's in the area where there are provisions for development densities that would implement the Mason County Comprehensive Plan. So that's why these regulations are proposed for Section 1.03.032. What we tried to do was determine how many lots could be considered in the plat to try to work out a reasonable delineation of how many lots a person could be allowed to redesign for so that's why under (a) the proposal is either for nonconforming lots that you could get credit for one lot to develop for every four of the existing lots that were in the plat. Assuming most of these lots are very small and you could also get credit for one lot for every lot in an existing plat that was ... the provision on the bottom on page 1 says 'you either get one lot for four existing lots or one lot per 2.5 acres, whichever is the greater number of lots, provided that existing lots greater than 2.5 acres shall not count for more than one lot in the proposed plat or replat'. So if all the lots were greater than the 2 acre minimum that is the typical minimum lot size under a regular subdivision then you would get whatever the development density is in that area. So if the plat was in a RR10 and the property is 8 acres in size you would get 8 lots. What Bob and I were trying to do is that not all plats have lots that are even in the exact same size. There are small lots and there are larger lots. So if you have a portion of the plat that had larger lots, 2 acres or greater in size, then you get the number of lots that are provided for that district.

(#0845) Bob Fink: In looking at this there's a little bit more explanation. Essentially there's two parts to this provision. The first part, which is 'Redesigning undeveloped plats', is basically the way that the number of lots that you're entitled to end up with is defined. So if you have a certain number of lots you're granted, at the end

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of the process, a certain number of lots. If you have eighty, 1/4 acre lots, for instance, that you wanted to configure, you'd have as many as twenty lots when you went through this process of reconfiguring these. Then there's provisions if the lots aren't that small you take into account the larger size of the lots in figuring out how many credits you get towards your final layout; the development rights. That's laid out in the first part. The idea is that there would be more lots than if you simply abandoned the plat or abandoned your grandfathered rights and applied the current zoning to those lots. It's seen as a win, win situation where the property owner gets an advantage of more lots than they would otherwise have. They get to reconfigure it into a more marketable pattern. It's done in a way that better respects or acknowledges the physical conditions and the current limitations on land development for things like critical areas that weren't necessarily considered at the time that the plat was originally laid out, or even the lie of the land, steep slope areas and in some cases they platted out into the water. So that's what the first part does.

The second part, which is (b) Criteria for lots less than 2 acres in size, probably needs to be elaborated a bit. The criteria is supposed to be applied to the new design of the project or plat so basically it should say 'if the proposed configuration of lots contained of lots less than 2 acres then these lots need to be clustered and open space provided and the design of the clusters need to meet the criteria listed below'. So if the lots you're ending up with are all over 2 acres, following the principles established elsewhere in the code, we're not concerned whether those lots are clustered or exactly how they're laid out as long as there is developable area for each lot. That's the main thing we're looking at. When you're ending up with or want lots that are less than 2 acres then we're applying criteria that are borrowed from the performance lot provisions and those criteria are designed to preserve the rural character of the area with smaller lots. If you were going through a standard subdivision process and you wanted to get the bonuses that go with a performance subdivision and you want to do clustered development then you'd have to meet these design requirements and you'd be protecting the rural character of the area as designed out. So we're trying to apply those criteria to the case where you may already have a number of lots and now you want smaller lots, lots of less than 2 acres, and that's the concern of preserving the rural character is having lots that size.

I know we didn't provide you with definitions and there are a number of existing definitions in Title 16. A cluster is housing lots and you can't have more than eight housing lots in a cluster and you have to have a separation between each cluster. It defines what your conservation areas are so when you're designing where your open space is going to be you use that to figure out an appropriate design for the site. The principle difference between this provision and the performance subdivision provisions is that you don't get bonuses; the whole thing is set up as a preservation of grandfathered rights, even though you're reconfiguring the property. In order to qualify for the bonuses under the performance subdivision you have to have 50% open space and here what we were looking at was only 10% open space. It's enough open space to separate the different clusters and maybe separate those clusters from your most sensitive areas.

The first part is if you go through this process and this is your starting point is the end point clear and does this make sense as a process? The second part is if we're dealing with smaller lots and we have an interest in protecting the rural character then are these standards appropriate and how well do they work given the situation?

(#1175) Mark Drain: The one that starts out with 1.03.032, would it be correct to call that 'The reconfiguration of lots less than 2 acres in size'? Or it covers more than just 2 acre lots?

(#1180) Bob Fink: They might be larger than 2 acres.

(#1188) Mark Drain: They might be five or eight acres but they're laid out in resource areas that should be protected now under current rules so you have the opportunity to reconfigure those lots.

(#1200) Bob Fink: They could be larger lots but lots that would be less than the density of the area. If you were in a twenty acre area maybe they would be eight acres. Then you might want to reconfigure that development in a way that makes more sense to your management of the property and to the marketability of it. You have to realize there are many cases where people can do that now under the county regulations that allow for BLA's without going through ... we don't necessarily need a special provision for that. If you're in a twenty acre area and you needed to adjust the size and the location of a few lots that were five or eight acres, those are all conforming size lots, except for density. You could make rather major adjustments to the

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layout of the land through a BLA and you wouldn't need these new codes to do that. One of the concerns why this was brought up is if you wanted to do a new plat and you abandoned the old vested lots you start fresh. Then suddenly you're at five or twenty acres and you lose all that grandfathering. The purpose of this is to allow for some of that grandfathering to be preserved and it's a tradeoff between simply allowing it to develop piecemeal under the current layout versus being able to replat it in a comprehensive way into a more marketable pattern and you don't lose all those grandfathered rights.

(#1290) Bill Dewey: So if you use the BLA process you lose those grandfathered rights?

(#1300) Bob Fink: You can adjust the plat doing a BLA but you can't do a new plat without losing them. A lot of what is done here could potentially be done through a BLA process but you can't replat.

(#1310) Bill Dewey: But isn't that what you're accomplishing through the BLA?

(#1314) Bob Fink: In some ways, yes.

(#1318) Allan Borden: It's an opportunity to move current easements as that they facilitate better access and create access to new lots instead of piecemealing it over the years.

(#1345) Tim Wing: Are there that many undeveloped plats in this county?

(#1355) Bob Fink: There's a fair number of them.

(#1360) Tim Wing: Where are they?

(#1365) Bob Fink: They're all over the county.

(#1368) Mark Drain: How do you find them? If they were recorded, that's the only way to find them.

(#1372) Bob Fink: There's actually a list of formal plats. I have the information but I just didn't have the opportunity to compile it before this meeting. You may also have a grouping of lots that now you want to plat and this would allow for that.

(#1405) Mark Drain: The Assessor isn't aware of a lot of them if they're not formal plats.

(#1420) Bob Fink: I don't know what the current status is but about a year ago the Assessor maps didn't really show on them all the plats or where people had divided land through a survey or divided land through other mechanisms before the county adopted it's short plat ordinance. Some of the other formal ones weren't shown on the map, either. What I had to review as far as plats go, there's a listing of plats where there was a formal plat document recorded. I had a somewhat dated assessment now of the degree of development. I would guess there's about fifteen to thirty around the county.

(#1480) Tim Wing: Do they tend to be out in the boonies? It seems like they would be otherwise they would have been developed or sold or parted out.

(#1485) Bob Fink: To some degree that's true but there's also parts of the Plat of Allyn, parts of the Plat of Union ... Potlatch would be another place.

(#1498) Steve Clayton: Also, around Devereaux.

(#1500) Bob Fink: They're not all necessarily totally isolated out in the boonies.

(#1505) Tim Wing: I would assume that you're talking about not just a plat that is a plat all owned by one person but could be part of a plat where the original plat is somewhat owned by other people or a bunch of individuals but there's still a fairly large piece of it that somebody might want to redevelop and they might own that whole piece.

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(#1520) Bob Fink: Right. I would think this could be applied to several larger blocks of a larger plat. If you take Union, there are several plats that mesh together to make a very large area, most of which is undeveloped currently. There's a couple of options that would be open. One would be where an individual owned a sizable area under this condition, like Detroit Township, and it's also possible they could form a single development among multiple owners. They could have a joint plan to do it all at once. The idea being that you have a minimum number of existing developed lots that you're not too constricted as far as your reconfiguration.

(#1580) Tim Wing: You mentioned that some people currently would do some of this type of work with BLA's. Is there any plan to restrict those opportunities for people?

(#1590) Bob Fink: No, not at this time.

(#1595) Tim Wing: Is this strictly a proposal to give more latitude and more opportunities for people doing what you're talking about, or is there any interest in this proposal to restrict other methods of handling lot combinations?

(#1610) Bob Fink: I don't know why it would. That's not the intent and I don't know that there's any language in here that would have that affect. If you see some in here, please point it out.

(#1620) Bill Dewey: Is what you propose here essentially the thought process that you had to go through the Clear Lake proposal when it was before the BOCC in March?

(#1628) Bob Fink: Subsequent to the review. This is something that's partially the request of the owners of Clear Lake and we were going to work with their attorney at the time and they've changed representation to come up with some language. This is the language that they sought; that they wanted to add to the existing abilities they had to reconfigure lots. There's a fair amount of flexibility in simply using the BLA process; there may be limitations for addressing issues such as roads. There may be issues regarding simply people who want to replat so that they have a new modern plat to market rather than whatever it is they had before. They get a nice, clean title; clear descriptions. I can't tell you all the reasons why the people were supporting this type of amendment but this is something they were looking for beyond the provisions the county has now.

(#1682) Mark Drain: Does this pertain mainly to nonconforming lots of less than 2 acres in size?

(#1690) Bob Fink: I think that's where it would be most used but it doesn't mean that every lot that's involved would necessarily have to be 2 acres or less.

(#1700) Steve Clayton: Like Tahuya Estates where it's an old plat that might have not been recorded it's five acres which is what it's zoned for, this would allow them to redesign the parcels amongst that, although they're conforming.

(#1720) Bob Fink: Conformingly, used fairly narrowly, in the sense that they have to conform for the density so in a five acre area they really need to be five acres to be conforming. Now, they may conform to the 2 acre minimum lot size but they still don't conform to the density.

(#1738) Tim Wing: If they do conform to the five acre size they don't need this new ordinance, then, do they?

(#1745) Bob Fink: You can compile parcels to plat land. They may have two pieces of land that they've run through a single land division process. So if you have eighty acres made up of four different parcels and you want to combine it into a single project that's doable. These regulations probably wouldn't be very applicable or useful but you can do it under the regulations otherwise provided. If you don't want to create new lots then you can use a BLA to reconfigure those lots and you have a lot of versatility there, as well. The county has clarified it's regulations for BLA's so I think we have better assurance now that when people go and reconfigure these lots through a BLA process that the end result still has buildable areas on those lots.

(#1830) Tim Wing: Did those changes come through this group?

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(#1832) Bob Fink: Yes, just recently over the last year or so.

(#1840) Bill Dewey: So is the language that's here developed by you and your staff or is this something the Clear Lake people put forward?

(#1850) Bob Fink: We developed it after discussing it with them and what they were looking at. We gave it to them about a week and a half ago and asked them for comments. We thought we'd bring it to you before we go ahead and prepare a public draft for hearing purposes to get as much feedback as we can.

(#1880) Steve Clayton: You put it in the DR's and we had to go back to Title 16 for the definitions and I'm not familiar with it but in pulling up Title 16 that seems to be where all of our plat and cluster and performance subdivisions are already existing. From a layman's point of view if this is addressing plats it would be better addressed in Title 16 than the DR's because it's an adjustment to a plat. That way we don't have to carry the definitions over and we could be consistent.

(#1910) Bob Fink: Actually, what we're working toward is combining these different ordinances into a single codified issue in the zoning code. The reason why these, particularly the first part, that lays out the density requirements, in here is a section in the DR's that deal with permitted densities and lot sizes. This goes into that section. There's different ways to approach it. Generally, design requirements for subdivisions are laid out that way and are often in the zoning code. The subdivision regulations are primarily procedural in nature except for road standards. There are some standards that have crept into the subdivision process in Title 16. There's a couple of places where lot sizes are mentioned. But these standards are specific to certain zones and that's one of the reasons they're in the zoning code because these standards apply to rural residential districts and they wouldn't make any sense in urban areas. These things have grown and changed historically and where they were put partly depends on accident of history. We'll recodify and unify them and get it laid more logically.

(#2050) Steve Clayton: Title 16 is labeled as plats and subdivision and this is fixing a plat ...

(#2058) Bob Fink: But this is defining the number of lots; the density which you are entitled. Not your standard density. I do recognize what you're saying.

(#2075) Steve Clayton: I had a question where it defines primary conservation areas. Folks are not allowed to use primary conservation area in calculating the percentage of permanent open space required. I was wondering what the reasoning was on that? It seems like if you have a five acre parcel and there's two acres of wetland and you have to have 50% open space and you can't count those two acres and that seems a bit abusive on the property owner.

(#2100) Bob Fink: The intention is that you are setting aside open space that wouldn't otherwise be set aside. That wetland area is already a protected area and in return for the bonuses you're getting as a performance subdivision you are setting aside 50% of the land that would otherwise be developable. (*Bob draws example on board*). Let's say the wetland was actually 50% of your property so now you get a bonus for doing nothing.

(#2155) Tim Wing: You're not doing nothing. You're not going to develop in the wetland which is 50% of the property. Why are you calling that 'doing nothing'?

(#2165) Bob Fink: Let's say you have property with no wetlands. You take 50% of your property for open space and you get 10 lots, double what you'd normally get, when you've protected no additional land there's no extra public benefit from that form of development. (*Bob draws example on board*).

(#2195) Tim Wing: I just disagree. If you own a piece of property and there's a wetland it should be set aside, obviously. Why that doesn't count as primary space and it's seen as not something you're doing I don't agree with that. Is that just because that's the way this is written or is there some basis for that approach in other law or other regulations?

(#2215) Bob Fink: The basis of the approach is the public interest. The idea of the cluster subdivision of giving bonuses is that you're doing something that is of greater benefit to the public. In return, you have a greater density. There's several elements besides the open space that goes into the design that enhances

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the preservation of the rural character. It's not just setting it up, it's also the design of the open space. If you counted the wetland area, which is not developable, as being adequate to meet your open space requirement then you have a situation where you have an area where you're not going to develop in any case and you can come in for a bonus and there's no additional restriction on his property that justifies the bonus. Maybe you think there should be no restriction on land use as far as ...

(#2275) Tim Wing: But he's lost a part of his land to the wetland and has to preserve it and why do you want him now to have to preserve additional land. Is there some rule in that?

(#2285) Wendy Ervin: If you have your five acres and then one fourth of that five acres being wetland and you did not do anything else but develop the three quarters of the five acres then would you get five lots or what? If all you did was set aside the wetland and do nothing else but develop the rest would you get five lots?

(#2310) Bob Fink: The wetland is already set aside.

(#2312) Wendy Ervin: I realize that. How many lots would he get?

(#2325) Bob Fink: Let's say this one piece is eighty acres and it's RR10. There is no bonus density for five acre lots because it was determined by the GMHB that for five acres it was not adequate protection of the rural area. You can set aside open space but you get no bonus. To get a bonus you have to be in RR10 or RR20 and if you had eighty acres then you'd have eight lots or sixteen lots. It also allows you to have clustered lots less than 2 acres. If you don't go through a cluster subdivision, your lots have to be at least 2 acres in size. That's also a provision to protect the rural character. This was developed through the GMHB in response to appeals over a five year period. *(Bob shows another example on board).*

(#2475) Tim Wing: Can you see how little space he's left with, then? If he happens to have a piece of property with a lot of wetlands on it and in addition to that he's required to set aside a whole bunch of other space as open space then he's left with very little property he can deal with.

(#2550) Bob Fink: If he has a lot of wetlands he has very little property he can deal with anyway. If 90% of the property is wetlands ...

(#2685) Tim Wing: This is telling him he has to set aside even more than the wetlands.

(#2600) Bob Fink: When you say 'set aside' that means that you're not building buildings on it. It doesn't mean you can't use.

(#2610) Wendy Ervin: But there's a carrot on the stick. He gets to put more housing sites on the balance of the land then he would if he didn't hold that back.

(#2615) Tim Wing: I don't have a problem with that. That's a bonus and if he's voluntarily able to do it that's fine.

(#2620) Bob Fink: That's exactly what it is.

(#2624) Wendy Ervin: Yes, it's voluntary.

(#2626) Tim Wing: You said it's required.

(#2630) Bob Fink: It's only required if you have lots less than 2 acres. The only way to get lots less than 2 acres in the rural area, and that's a bonus, too, ...

(#2635) Tim Wing: If you're redeveloping a plat with lots that were maybe a tenth of an acre a piece and it says here that we're only trying to enhance these people's ability and not trying to diminish their rights in terms of the number of lots and yet what you're doing, I think, does that.

(#2660) Bob Fink: If they have eighty lots that are a quarter acre each, under this proposal, they would end

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up with 20 lots on 20 acres. Essentially one lot per acre. (*Bob shows on board*). What it affects is not the number of lots he has. What it affects is the layout of the land. The cluster subdivision is the preferable layout that gives a more rural character to the area than would simply a grid pattern of one acre lots.

(#2720) Steve Clayton: It's also more efficient for utilities and roads.

(#2724) Bob Fink: Yes, and it's cheaper to develop that way. There are a number of benefits. I don't see this at all as a punishment.

(#2750) Darren Nienaber: Under 5.(a) it talks about the fact that owners may replat and may preserve existing density as follows. They can stick with the status quo or they can use traditional BLA's or they may opt into this provision. Is that the intent, Bob?

(#2762) Bob Fink: Yes.

(#2764) Tim Wing: I guess I'd like to see the bonuses be the opportunity for them to create more open space but not requiring them to do that. I don't see why we need to restrict this. This is only for plats; this is not the rules for developing new plats. So you're talking about a bunch of small lots to start with and if you want to encourage people to utilize these rules to come up with a more modern plat I think you should give as many options to them as possible and I don't think requiring them to have all that open space is that. I'd like to encourage that through the bonuses.

(#2800) Bob Fink: One of the reasons of the design of the open space is put in there is because it's clear it's an effort to preserve the rural character and if you aren't taking affirmative steps to preserve the rural character when you're doing this then there is the possibility that it will be challenged. Does that mean as laid out this is perfect? This is what we're putting out for discussion. If you think something in here is more restrictive than it needs to be and yet we can still preserve rural character and make the situation better than the alternative then you're perfectly free to offer some adjustment to it. You have to realize that in whatever process we set up if we're not preserving rural character we're going to run into people who are objecting to this opportunity.

(#2880) Tim Wing: I live in an area that I think has a lot of rural character. I live on a hilltop and on a ridge line. I live in an area where people live on one acre lots and there wasn't any clustering. I think it's pretty rural. I'm not opposed to clustering; I like the idea of clustering. I do like a lot of what this is. I'm not objecting to that but I'm just saying that we started with plats that may have really small lots and it says that the philosophy is to try to preserve as many options as possible for the people doing this.

(#2900) Bob Fink: The design criteria here I developed from landscape architects and planners recommendations for how you preserve rural character. If you want to know the visual impact of houses on tops of ridges it's much greater of an impact than a house below the ridge. That doesn't mean that one house on the ridge, if it's the only house for miles, changes the rural character. It just has more impact as you have more and more houses. It just has a greater visual effect on the character of the rural area. These particular standards here went through the GMHB for approval and they were amended in response to remands. That's not to say they can't be modified further and I'm not even saying that I disagree with you. However, my vision of rural character may be a little different than what's come out of the county process as a whole. The county has an interest and a requirement to preserve rural character. One of the guidelines we have is 'what is rural character' has been embodied in these criteria which are designed to preserve that rural character in these small areas of more intensive development. The idea of a minimum lot size, less than two acres, is also something that came out of the hearing process. You're raising objections and concerns that many people had over the last six years and people have different viewpoints as to what is allowed and what should be allowed and what rural character means. The end result of all of that process is we have a definition of rural character that's been accepted. These are components to it and that's why we borrowed the existing language in trying to design a development that would have smaller lots and would have more intensive development than would otherwise be allowed. If there is a specific way you want to see this adjusted then you should suggest it and we can see how it works.

(#3085) Steve Clayton: What we're looking at today is on the less than two acre size and what you said there

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is that 10% of the property other than the critical area needs to be set aside for open space. We talked here about the 50% in cluster subdivisions, and what we're talking about today in the normal is the 10%.

(#3100) Bob Fink: Yes, this is only 10%.

(#3110) Steve Clayton: In this kind of scenario the primary conservation area in the plat we were looking at for the rezone that platted area included the physical lake bed, too, didn't it?

(#3120) Bob Fink: No, the acreage of a lake wouldn't be counted.

(#3128) Allan Borden: The water body was not divided into the lots.

(#3130) Bob Fink: Occasionally that has happened but not in this case.

(#3135) Steve Clayton: So in saltwater lots it does extend into the water but not in freshwater?

(#3138) Bob Fink: The reason why the plat is extended is that often it's in private ownership and the plat is extended on the marine shoreline usually because the tidelands are owned. The same thing applies to the freshwater lakes because under some circumstances the state doesn't own the lakes. In some states the landowner owns the lake bottom and they often plat out into the lake. Sometimes they make a single public area.

(#3200) Allan Borden: They did do that on Mason Lake in some of the coves and that's always presented a problem with docks out into the water and projecting property lines.

(#3250) Terri Jeffreys: So in order to replat and have lots less than 2 acres in size, if I'm reading this correctly, there needs to be some sort of critical area that would be considered a primary conservation area?

(#3265) Bob Fink: There might not be any primary conservation area. It's something you consider if you have, say, wetlands because they're the most prime example.

(#3280) Terri Jeffreys: So you're not requiring there be a primary conservation area in order to get this?

(#3288) Bob Fink: No, that's going to be just the circumstance of the property. If there is a wetland area or primary conservation area ...

(#3292) Allan Borden: The standards under (b) are for designing how the number of lots you do get granted how they are arranged. So if there is a wetland or a ravine or a stream you have to account for those as primary conservation areas.

(#3310) Bob Fink: Right. They're all design requirements for how you lay the lots out. Not affecting the number of lots you're entitled to.

(#3315) Terri Jeffreys: The way this reads is that my impression was that it was only allowed if there was.

(#3322) Bob Fink: That's one of the reasons why I started to explain these criteria are intended to be for how you design the final proposal.

(#3333) Bill Dewey: Is it worth having some additional narrative there at the beginning of (b).

(#3344) Bob Fink: Yes, that's why I actually read you what I had written out for that.

(#3350) Bill Dewey: I couldn't get (a) to make sense for me. I don't know if it's the sentence structure or what.

(#3380) Terri Jeffreys: I thought this was for replatting. Wouldn't this just be for something that was pre-existing?

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(#3410) Allan Borden: It was mentioned before about taking a group of parcels that are maybe contiguous.

(#3418) Bob Fink: All this is for discussion. Obviously the task we were sent had to do particularly with plats but there are a number of areas in the county where there are small lots that weren't necessarily formally platted. They may have just been surveyed or otherwise created that maybe now they would want to plat and yet they couldn't plat it without abandoning the grandfathering. The way the language reads, although the title states redesigning undeveloped plat, is that it applied to existing contiguous lots in the rural area that are principally undeveloped and they may plat or replat. As this language reads now it's not necessarily just limited to plats and maybe it should be. This is all for discussion.

(#3500) Tim Wing: But under 5.(a)(1) am I correct that the minimum lot size is 2.5 acres?

(#3508) Allan Borden: Not for the replat. There's a cutoff; if the lots are less than 2.5 acres in size then you're probably going to go to the 1 to 4 of the existing lots.

(#3538) Bob Fink: Right. The provisions would be if you have four lots and together these are less than 2.5 acres then those equal one lot.

(#3560) Tim Wing: Is there a minimum lot size?

(#3566) Bob Fink: For the final lot or for what the lots are that you're compiling?

(#3572) Tim Wing: I'm talking if they get through this process is there a minimum lot size?

(#3575) Bob Fink: Yes, it would be 20,000 sf. That's the minimum allowed for a cluster development. I don't know that there are any existing land divisions out there where four lots together would be less than 20,000 sf.

(#3605) Tim Wing: There are lots of them. It says under (b)(5) but that is for the bigger lots.

(#3618) Bob Fink: So 20,000 sf is the minimum so potentially if these were less than 5,000 sf then you might need more than four of them to meet this standard. The 20,000 sf is also taken from existing county standards for development in the rural area. The 20,000 sf is only allowed in a cluster subdivision.

(#3675) Bill Dewey: Under (1) you say one lot per every four but if in fact those four together don't get you to 20,000 sf that doesn't work.

(#3688) Bob Fink: Not necessarily. If all you had were lots less than 5,000 sf then you may not be able to get one lot for every four but if you had several lots less than 5,000 sf and maybe a larger lot so that together let's say you had a few larger lots as well. Theoretically you'd still get two lots, which together was 40,000 sf, it would be a pretty small cluster but it would work. A lot of these things really only come into play when you're talking about larger developments. Actually, the more land you're dealing with the more effect you're going to have. If all you had were lots less than 5,000 sf you'd end up combining more than four lots for every lot you ended up with. You really don't have anything like the design flexibility or the full effect of what these criteria could provide unless you're dealing with larger developments.

(#0125) Bill Dewey: So do you need to try to clarify that in (1)?

(#0127) Bob Fink: We can look at that.

(#0132) Bill Dewey: If what Tim says is true, if there's a lot that small, you get caught in a situation where someone comes in and says they get one for every four. You should stipulate that those four have to tally up to 20,000 sf or it doesn't work.

(#0142) Bob Fink: It probably should be more clear because I do think that is the way it would work. You'd have a problem allowing lots of less than 20,000 sf., just because of the process we've gone through before. This is kind of a unique circumstance, too. On the other hand you can argue that every improvement you get over the existing conditions is beneficial. This is a conservative approach to bring them all the way in and

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then it still may not be all the way in to the standard of a performance subdivision because the requirements are reduced over what they would be in a performance subdivision.

(#0200) Terri Jeffreys: Under (b)(4)(ii) where it talks about the design of the proposal should avoid construction on hill tops or ridge lines, which are probably the best paying lots. I'm assuming that's for the preservation of character and I wonder if that's absolutely necessary, in your opinion, given the GMHB decisions?

(#0215) Bob Fink: Once you start tweaking these things it's really hard to know how the decision is going to fall out or who is going to object or why. The thing about ridge lines; you can build just below the ridge line where the roof of the house doesn't extend beyond the ridge line and you've reduced a lot of the visual impact.

(#0225) Terri Jeffreys: You mean by setting back from the ridge line?

(#0228) Bob Fink: You can also set back from the edge of the ridge line so that the house doesn't profile against the sky. The visual ridge line would be the front part where you might not want to be build because of landslide hazards anyway. The ridge line is actually the front part of the ridge, right where it begins to drop off.

(#0255) Tim Wing: I live on one of those ridges and the only people that can see my house from the front are on the other side of the canal. They're like three and a half miles away. You can't stand in front of it and look at it. I see that it's not a requirement but those are the most valuable pieces of property for sales. If you're wanting to encourage people to do this kind of thing they're going to want to make money on it. People do like to live on the tops of hill tops.

(#0275) Bob Fink: The idea is to move them back from the ridge line.

(#0284) Bill Dewey: Maybe there's a way to clarify that statement so you don't raise the question. Tim has a legit point and you've explained it. You're not excluding the development there ...

(#0292) Bob Fink: I'm not sure he'd be satisfied with moving the house back. Does that give you the marketability that you're looking for?

(#0298) Tim Wing: It could.

(#0300) Steve Clayton: In a conforming parcel does that restriction apply?

(#0302) Bob Fink: No. If the lot is 2 acres then that standard doesn't apply. These criteria don't apply at all if you're ending up with lots of 2 acres, which are still nonconforming lots, the lot size is conforming but the density doesn't conform.

(#0312) Steve Clayton: So we're talking about relatively small parcels that are getting benefits from the platting that we're talking about not being put on ridge lines? Not conforming lots that are already out there, such as yours.

(#0325) Bob Fink: Maybe that should be explained because if you go back to the source documents it's fairly clear visually. (*Bob draws example on board*). It says these criteria should be avoided; it's not an absolute. It's something that goes into the overall design of the proposal. So if all the property is along the ridge you may not have a choice but to have some of the houses on the ridge line.

(#0392) Terri Jeffreys: That's if it's not possible but if you're trying to get maximum profit ...

(#0400) Bob Fink: Now you're really getting into values of the designs. None of these criteria are stated in absolute. They're all factors that go into the overall design. Is the overall design acceptable or not? You might think of it as substantial compliance instead of absolute compliance.

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(#0408) Tim Wing: These things tend to be drafted by people who don't want the development at all and they'll say you're not in compliance and that you're supposed to avoid these things and here they are. Why don't we have it say something like 'that we're going to preserve the overall appearance of it', or 'we're going to try to preserve views' or something that doesn't specifically talk about locations because each location is different and each property is different.

(#0425) Bob Fink: I don't know if that language makes it any better. If the intent is what you're trying to do is keep these buildings from being silhouetted against the sky, which is where they're going to have their greatest impact, then maybe that should be clarified and stated because that gives people better guidance as to what they can and can't do.

(#0460) Lynn Paretchan: I had an observation that I haven't heard made yet and that is when you're talking about existing plats and they're going to run into these restrictions one response will be to save the plats that are on the ridge line, the ones that can avoid these rules, and work around them. If this becomes problematic to get the view or whatever they may say they're not going to change this plat.

(#0475) Bob Fink: Yes, that's true; this is an optional process so if people think it's better to work within the other provisions and just avoid these.

(#0480) Lynn Paretchan: Well, you could split it. Some lots you use the original plat and the rest you utilize this.

(#0482) Mark Drain: Is this the first time that this suggestion comes up in development? Construction on tops of ridges?

(#0488) Bob Fink: That's part of the existing guidelines for the performance subdivision. That's in the code now for performance subdivisions. It's not a hard and fast rule but when you design your overall subdivision and you take into account that you're avoiding building in this area because it's sensitive, etc., you've set aside open space and you take in the entire design and multiple criteria then the idea is that you would be able to approve it as a whole so there would be a balancing of these different goals you were trying to achieve. Minimizing the impact to the view and the impact of that to the character of the area by avoiding these areas is only one of the things that's taken into consideration.

(#0600) Tim Wing: What's the next step with this?

(#0605) Bob Fink: We take whatever comments we get. We haven't received any comments from the Hofferts who were the parties involved in the plat we've been discussing. We'll take the discussion we've had here and any further suggestions you want to make changes and rework this as a new draft and get ready for a public hearing.

(#0622) Steve Clayton: Under (6) what is the applicability, especially in a place that doesn't have conservation areas where there's no open space? It says 'residential lots will be grouped into clusters' but basically if we take a ten acre parcel and break it into ten lots it's not grouped.

(#0638) Bob Fink: You group it. The lots that you're ending up for residential purposes for building ... you might have lots for open space that are not to be developed for stormwater but your residential lots that are intended for building are grouped into clusters. A cluster is defined as two to eight lots with a separation between other clusters. If it wasn't separated from other clusters then it would be one cluster. It says here that clusters can be only as big as eight houses in one cluster. That's the standard that already applies in a performance subdivision. There has to be a separation of at least 100 feet of open space.

(#0682) Steve Clayton: But that would only be applicable on a cluster subdivision. Not in this.

(#0685) Bob Fink: This says that your small lots you have to cluster. This is one of the design requirements for your small lots so when you're configuring your plat and you're averaging one lot per acre then the way you lay it out you'll have a certain open space and you end up with lots in different clusters. *(Bob shows example on board).*

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(#0760) Lynn Paretchan: I think it would be a lot clearer under the (b) criteria if you just started out by saying that this requires clustering and that you need at least 20,000 sf to meet this.

(#0770) Darren Nienaber: For the record, could you state your name.

(#0775) Lynn Paretchan: My name is Lynn Paretchan.

(#0785) Darren Nienaber: Are you the attorney for the Hofferts?

(#0798) Lynn Paretchan: I'm here to listen on behalf of the Hofferts. And I expect they'll have some response to this. We just wanted to hear more in depth of what your explanation was.

(#0790) Bob Fink: Any other comments?

(#0782) Tim Wing: I just want to reiterate that the open space requirement should not reduce the total number of buildable lots allowed in the new subdivision.

(#0786) Bob Fink: Right, and it shouldn't. That's not the intent.

(#0800) Tim Wing: If this is a positive proposal, to get people to use it, we need to give them the maximum benefit of what they had. They had a certain number of lots and building sites and they should be able to try to preserve the number they had.

(#0820) Bob Fink: You mean the initial number of lots?

(#0822) Tim Wing: Well, I know there are a lot of tiny lots and I don't mean that. But when you drew a quarter of the guys property as a wetland and then he's supposed to set aside another 10% I want to make sure he has enough benefits to do that so he ends up with the ability to build the same number of homes on that property, even if the clustered lot is a little bit smaller than the 20,000. If that's the only way to get to that then I'd like to see that.

(#0840) Mark Drain: Maybe there's a limit to the size of the wetland or whatever the resource is. If it exceeds a certain percentage of the total property then you can forego the addition of any more open space.

(#0852) Terri Jeffreys: I like that idea.

(#0865) Bill Dewey: I'm still putting in my request for a clearer (a). I would like to see it rewritten.

(#0875) Tim Wing: I think in the second line it should read 'Areas that are principally undeveloped the owners may plat or replat'. I think that makes more sense.

(#0878) Bill Dewey: I was just trying to drop the word 'where' in the beginning of the sentence.

(#0880) Wendy Ervin: I think that would read fine by dropping that 'where'.

(#0882) Allan Borden: Yes, move the word 'owners' right in front of the 'may plat or replat' and then just say 'in existing lots (as of June 17, 1998) contiguous lots in the Rural Areas that are principally undeveloped, the owner or owners may plat or replat'.

(#0895) Wendy Ervin: Or just have it as 'owner(s)'.

(#0905) Steve Clayton: We talked earlier about the definitions in Title 16 need to be referenced in here somewhere.

(#0910) Allan Borden: Or we could just stick the definitions in the DR's but put a reference to Title 16 section.

(#0915) Steve Clayton: Or just put the reference so when we change them we only have to change them in

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one place.

(#0920) Mark Drain: Under (1) on page 1, were you going to reword it to say that four lots are needed to make one, and say something like four lots or as many as are required to make one for a 20,000 sf lot

(#0940) Bill Dewey: I would still like to see (a)(1) rewritten.

(#0945) Bob Fink: Since there are actually several conditions we're attempting to address in one sentence it would probably be better to break it into a number of clauses.

(#0952) Tim Wing: Could you work on that?

(#0955) Bob Fink: Sure.

(#0960) Mark Drain: On (b)(1) was there a concern about Primary Conservation. It says 'Primary Conservation Areas shall be clearly identified'; only if they exist.

(#0968) Terri Jeffreys: Right, if applicable.

(#0995) Bill Dewey: Any other comments?

(#1005) Terri Jeffreys: It talks about the interruption of scenic views and vistas. Who do you not want to interrupt the view from? Existing homes, or the roadway?

(#1035) Tim Wing: What concerns me is having something in here and people could come in and say they have a right to views or vistas. I don't necessarily even agree with what somebody else's idea of what rural character is. I have my own idea and I think a lot of people have their own idea and it may be different.

(#1052) Allan Borden: If you didn't have these suggested criteria then the person proposing a layout wouldn't be reminded that they need to take those into consideration. So if we don't even mention scenic vistas or trying to attempt to limit development on the ridge line then the applicant comes in and says that you didn't tell him to take that into consideration.

(#1072) Terri Jeffreys: What if he comes in and says he took that into consideration but it just wouldn't make financial sense?

(#1100) Bob Fink: We could look into that.

(#1125) Bill Dewey: Okay, I hope you have some input to help you out so you can bring it forward to a public hearing.

(#1134) Bob Fink: Yes.

(#1138) Bill Dewey: So our next meeting is on the 24th and I'll have to be excused.

(#1140) Wendy Ervin: I make a motion to excuse Bill on the 24th.

(#1142) Tim Wing: I'll second the motion. Motion passes.

(#1152) Wendy Ervin: I also make a motion to excuse Terri for the February meeting.

(#1155) Tim Wing: I'll second that motion. Motion passes.

(#1160) Terri Jeffreys: I'd just like to make an announcement that the Association of Realtors are considering putting together a workshop on critical area ordinances that have been discussed and reviewed and done by other counties doing their update processes and having a land use attorney talk about what some of the other counties have done. That will probably be in February and we'll be inviting the PAC to attend.

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(#1188) Bill Dewey: Okay, with that we're adjourned.