

**MASON COUNTY
PLANNING ADVISORY COMMISSION
Corrected per Commissioners**

March 19, 2012

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1. CALL TO ORDER

The meeting was called to order at 6:00 pm by Chair Randy Neatherlin.

2. ROLL CALL

Members Present: Dennis Pickard, Randy Neatherlin, Jim Sims, Ken VanBuskirk, Cathi Bright and Kristy Buck. Bill Dewey was excused. Kristy Buck was welcomed as our newest member of the PAC.

Staff Present: Allan Borden, and Barbara Adkins, Rebecca Hersha, and Susie Ellingson.

3. APPROVAL OF MINUTES

None.

4. NEW BUSINESS

Barbara Adkins opened the public hearing to consider revisions to the Resource Ordinance and to Title 17 of zoning. In December of last year the PAC heard and the BOCC adopted an amendment to the Comp Plan in Chapter 3, Planning Policies, as it relates to Resource Lands specifically Long Term Commercial Forest. There were two policies that were added to that chapter dealing with the redesignation of LTCF under certain circumstances, and the criteria was listed and adopted, as it also pertains to InHolding Lands. The hearing is because the RO, as well as the Zoning Ordinance, implements the Comp Plan. Now that the ordinance has been adopted, we need to have the corresponding regulations to implement those. The proposed amendments are in Title 8. The new language adds 'c' Redesignation. And the subsections following that will change their numbering or lettering. Inholding lands has a new Designation language added there which is saying because of this particular situation, these LTCF and InHolding may not necessarily meet what is already there. The remaining property has to have some sort of zoning designation on it so Title 17 has been amended to allow this to happen and allow the BOCC to consider placing an appropriate zone on that property that meets the specifications of the policies in the Comp Plan.

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No one from the public commented on the hearing.

Dennis Pickard added under new language in Redesignation to include that they must meet the criteria in the Comp Plan Policy to include A-E under RE105. Also, under new language in Designation that it say instead of some portion of the LTCF land which has previously caused the subject property to meet the criteria for classification of InHolding Lands.

Jim Sims made a motion to recommend the proposed changes and amendments to the BOCC for approval. Dennis Pickard seconded the motion, and the motion passed unanimously.

Allan Borden opened the public hearing on the rezone request by Taylor Shellfish. Dennis Pickard disclosed that due to his work at Mason County Title Company that he has worked with the subject property, but has no interest in the subject project itself, nor has he had any communications with any of the parties regarding the rezone application. No objections were noted. Allan stated you heard a rezone request earlier this year by the Humane Society and after the hearing in which the PAC did not make a decision, I discovered the county GIS system had made an error in the zoning maps. In this case there is a property east of the subject property which was rezoned to Rural Commercial Zone in 2006. I notified the GIS department that their map was incorrect. As that property to the east is a rural commercial zone, the subject two properties proposed by the Humane Society could not be rezoned. The review would have to stop and should not have proceeded in the first place if the maps had been correct. So the Humane Society has withdrawn their application. They have submitted a special use permit request for the cottage industry. They will establish a residential use that will be a full time residence and they will operate an animal shelter on a limited basis. The SUP was reviewed last Tuesday so we won't hear a decision on that until next week.

Dennis Pickard stated the application for the property to the east that was rezoned in 2006 does not appear on the listings of permits on the county's website. Can that be corrected?

Allan Borden explained there wasn't a rezone request for that particular parcel. There were 13 properties that were actually zoned correctly in 2006. They were incorrectly zoned residential in 2002 and there were a series of corrective rezones without rezone applications. That's why it doesn't show up on the website.

Allan Borden stated Taylor Shellfish and Kimberley T. LLC have proposed that one parcel be rezoned in the Rural Area from Rural Tourist zone to Rural Industrial zone. This property is located mid way in between the two portions of the Taylor Town Rural Activity Center. The applicant is making this request in order to accommodate some of the recent industrial related land uses that are taking place on the property. It will also provide additional building areas for future development. It was originally zoned Rural Tourist as it was being operated as a cultural center, also known as the Bronze Works. It was supposed to be for local artists and a local gathering point in the county. Over the last ten years, it has transitioned; some of the buildings are being used for industrial instruction by Olympic College. Staff has reviewed the criteria and has found that they have all been met and staff recommends approval of the proposal as the applicant has requested. We have also received a letter of support from the Economic Development Council.

Ken VanBuskirk inquired about the affidavit of posting notice in the staff report. Allan Borden stated we do it on special use permits and shoreline permits, and this is a process that confirms that legal notice was posted on the property. We do that on all rezones. Ken VanBuskirk inquired about the aerial map that shows the land to the north is timbered, and Green Diamond owns it, and wondered if it is actually zoned RR or LTCF. Allan Borden explained it is RR and has a timber taxation class on it. It's not committed to LTCF production; it's for tax benefit for Green Diamond.

Kristy Buck inquired if the Rural Industrial zone allows for the college welding class. Allan Borden stated it would still be allowed. It is considered an industrial use. Kristy Buck stated she is the chair of the EDC and wasn't aware if that needed to be disclosed. It is hereby noted on the record.

Louis Cofoni inquired if the adjoining rural residential properties would conflict with what Taylor Shellfish wants to do nearby. Allan Borden explained that right now this property is not used as part of the Shellfish

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production or processing. They're using it right now to construct devices that would eventually be used in the shellfish industry. Louis Cofoni inquired how long this would be able to be used. Allan Borden explained that once it is rezoned it can be used for industrial uses forever.

Dennis Pickard inquired if any of the surrounding commercially zoned properties would make this a conflict in rezoning this property. Allan Borden explained that if you go from commercial to industrial that is more intensive. Dennis Pickard inquired if that puts this property into the same situation as the Humane Society where it was potentially not an option for us. Perhaps the regulation needs to be clarified to say not just a more intensive use, but to say from a residential use to a commercial use. Allan Borden stated his opinion is that it does not affect this property.

Diane Cooper of Taylor Shellfish stated this property was designated Rural Tourist and it was really designated to be a cultural center. It was Norma Taylor's vision and it would include a Bronze Works and it would have an artist's community. That vision did not follow through and so it has been, over time, used to accommodate other uses. Primarily Olympic College and their welding activities, which is consistent with the Rural Industrial designation. We also do fabrication there as well as boat building and nursery building with storage. It is a good site for what we're doing. We recognize this is a rural area, with rural residential around the area, and recognize how important that characterization is and intend to maintain that characteristic. You won't see a change in the land use there, nor the activities. We just want to make sure that the zoning accurately reflects the land use activities occurring there and also accommodate any future use. There would not be any increase in traffic or urban services. I would submit it is consistent along with the other uses along the 101 corridor.

Ken VanBuskirk inquired about the issues with Lynch Road and the 101 connection. He asked if Taylor has any concerns with Fredson and 101. Diane Cooper responded that Taylor does not, and Lynch Road really services a whole section of residential that goes up Lynch Road. Diane Cooper stated that Fredson does dead end.

Louis Cofoni inquired about if there has been a decimal reading to find out how the noise it, and if it would affect any of the surrounding residences quality of life. Diane Cooper stated the noise that is associated with these kinds of activities is enclosed in buildings. I don't think you can even hear it outside the buildings. Taylor also owns property that surrounds this. There won't be any change in that.

Randy Neatherlin closed the public comment portion of the hearing.

Dennis Pickard reiterated that we need to be considering all the uses that might be possible under the revised zone classification. You need to consider that, not just the applicant proposal. Cathi Bright also noted that we just make a recommendation to the BOCC.

Jim Sims made a motion to recommend the proposed rezone for Taylor Shellfish to the BOCC. Cathi Bright seconded the motion.

Cathi Bright noted on the application under #7 it states that there will not be additional pressure for land use changes due to a rezone from rural tourist to rural industrial. There may be, in fact, less pressure for additional future developments as a result of the rezone. Rural tourist allows for a more intensive use by the general public than an industrial use which is primarily a private use. Cathi states we touched on that and it an important thing to note. According to the use that is being done right now on the property, this zone is more appropriate. The buffering surrounding it now is sufficient as to the properties that might be affected by it. Dennis is concerned about the mechanics with the code.

The vote was taken and it passed unanimously.

Barbara Adkins opened the public hearing to consider amendments to Title 17 (Zoning) with respect to 'Collective Gardens'. The BOCC have adopted a moratorium on collective gardens and it was extended once and set to expire on May 16th. The BOCC has asked that we put forward zoning regulations on the locations of collective gardens. This is new territory for all of us and there are a lot of cities out there that have looked at the regulations, but only one county that has adopted them. The Governor's bill does allow

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counties, at their discretion, to adopt regulations that deal with business licences dealing the health and safety. Lewis County is the only county that has adopted them. This provides a definition of what a collective garden is as set forth by the RCW. There is also some cautionary language regarding how state and local laws differ from federal laws, and those were added at the request of the BOCC. There is also some language that deals with the buildings; fencing, maintaining logs, security systems, etc. That may or may not be the direction we want to go. The rest of the regulations just indicate where these gardens are allowed to be. We've stayed in the commercial areas only; in rural areas and in the UGA's. Not all the commercial areas are affected. Festival Retail and Village Commercial areas are not included. I didn't add that it needed a Special Use Permit, but you can consider that. That would need to go before the Hearing Examiner and would definitely be more costly to the applicant.

Todd Nelson inquired if these regulations are passed will it affect the collectives that you've sent cease and desist letter to come forward and provide paperwork proving that they were collective gardens before the moratorium was put forth. Will they be grandfathered in? Barbara Adkins explained that code revisions are not retroactive. It won't affect anything already in existence.

Ken VanBuskirk stated the BOCC wanted the PAC to make some recommendations on this. Should we be making recommendations, or can we? Barbara Adkins explained that zoning code amendments have to go before the PAC. Ken VanBuskirk inquired if the City of Shelton is also having a hearing on this this evening? Barbara Adkins explained that the city is continuing their moratorium tonight. There are some people operating up in Belfair and Ken inquired if they had been sent letters that they're not in compliance. Barbara Adkins explained that everyone that we are aware of in operation has been sent letter and we've been in communication with them. Ken inquired what the county is telling them. Barbara stated there is a lot of grey area between the law and the interpretation that is out there. Ken explained he stopped at Cannabis Care Foundation just to see what the deal was and was confused about it. In what you've given us this evening it doesn't say how many plants a collective can grow. Barbara explained the RCW dictates how many plants can be grown at a collective. Tonight I'm only asking you what zoning areas a collective garden can go in.

Jim Sims stated there is a lot of confusion here about what is allowed or what the interpretation is. Perhaps it is beneficial to develop your proposal to be more specific, as well as repeating the RCW as to what is allowed and what is not allowed.

Dennis Pickard stated Shelton was looking at putting them in general commercial zone for the Shelton UGA. Having some understanding of where the city was going with this would be important. Jim Sims inquired if the city was planning to write a regulation or let the county take the lead. Barbara Adkins responded that she has spoken with one of the commissioners at the city and they intended to extend the moratorium and that they were looking to what we were doing to see about following suit.

Cathi Bright noted on page two of the language under 'm' and 'n' where it talks about security, lots, etc. how can you do that from a permitting perspective? How is that enforceable? It seems more germane to law enforcement and how we're going to regulate those gardens. The sheriff would be able to stop by and ask if they had their logs or whatever. Randy Neatherlin noted the same concerns. Barbara Adkins explained Lewis County's zoning was a cooperative effort between Community Development, their Sheriff's Department and the Health Department. Some of it was so far into law enforcement that we couldn't handle it. That speaks to the fact that they intended for the sheriff to pick on all of that.

Dennis Pickard inquired if there was a similar proposal in the works for law enforcement where there might be a more appropriate place for them. Barbara Adkins stated the Sheriff's Office has not put forth anything to regulate these. Dennis Pickard inquired if there was a request by the BOCC for them to do so that you are aware of. Barbara Adkins responded the BOCC has requested them to do so. The conversations continue, however, as there are still a lot of grey areas.

Kristy Buck inquired if the affected parties or public have had any communications about writing or drafting any of these regulations. Also, has the Sheriff's Department done so? Barbara Adkins responded with a 'no'. Barbara Adkins did note that the affected parties are extremely up to speed on all the laws and issues. I did send them a copy of those affected parties and encouraged them to attend this hearing.

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Miscellaneous discussion regarding zones looked at for possible locations.

The public comment portion of the hearing was opened.

Shawn Farner of Shelton stated the RCW states a collective garden can have up to ten people working together to grow forty five plants, but that there can be more than one collective garden per location. So you could have more than ten people in one location. They don't limit that in the state. I've worked in a couple different industries and zoning wise you would require a business to have a security system. I've worked making firearms, worked in aerospace, and they did require us to have a security policy in place so that limits a chance of a break in or burglary. The minimum square footage for forty five plants would be 200 to 300 sq ft.

Shawn Stacey from Tahuya stated that every collective garden that is leased in the county don't actually grow. They're just a place to distribute it to the patient. Sometimes they'll have cuttings, but they don't actually grow and produce it in the establishment. The whole point of having security cameras is a mute point. There's nothing there at night. Since the moratorium has been imposed, two more establishments have opened. What's the point of the moratorium if you're going to let people open them? They're just finding loopholes and flying under the radar and getting opened. Cathi Bright stated she thought the collective garden is where the growing is taking place, not where it is distributed. Shawn Stacey says the growing takes place in everyone's personal houses as everyone has their personal license.

Miscellaneous discussion regarding collective gardens versus co-ops.

Ken VanBuskirk inquired of Mr. Stacey if the persons right now have a license they can grow. How many is that? Mr. Stacey stated it is fifteen per person. Jim Sims inquired who issues that license. Mr. Stacey replied you have to get from a state licensed doctor. It's the same thing as a prescription. It's no different than a pharmacy. You can have up to twenty four cured ounces. It tells you that right on the license. You can only have forty five plants in one location according to state law. It doesn't matter how many people are growing there.

Louis Cafoni inquired if most people grow the cannabis at their house, and do they come to the co-ops to buy the seeds to plant. Mr. Stacey responded some of them do, or they will have the cuttings already pre-grown.

Todd Nelson stated he lives in Pottlatch, and owns a co-op called Patient To Patient Grow Collective. I do have a grow, but it's not in my retail location. I've had Mike Dorsey and one of the sheriff's deputy's stand in my grow and talk about regulation with me. To actually come up with some regulations you have to know what the law is. I know more about the law than more people sitting in this room because it's what I choose to do as my dad died from terminal cancer. There are huge grey areas in the law, hence why businesses like mine are popping up all over our state. Unfortunately most people are doing it with the intention of profit. Early on it was about a sick patient, not for profit. It was for people to have another form of medication. Since then most people have taken those grey areas and are making a lot of money off it. We do need to have regulations. We shouldn't have them in residential areas because of the dangers involved. The problem with having them in residential neighborhoods is most people don't have a licensed, commercial electrician install their electrical. When you start about growing medical cannabis you need lots of lights which creates lots of heat and that shouldn't be in a residential neighborhood. They need to be in proper zoning. The state isn't going to step up right now. What is in this draft doesn't really fit with what we do. The security is important. I've also given my word to the Prosecutor and Sheriff that I will do everything to insure that my medicine won't get into the wrong hands. You need to keep that in mind if you want a bunch of commercial growers coming into Mason County. I commend Barbara and her office; she kind of got thrown into this because of my business and how close I am to Tim Sheldon's driveway. At the end of it, there's people that are dying from diseases that are in those qualifying conditions.

Randy Neatherlin stated we have a job to do and we do the best we can. We are here to hear your comments so if you have some suggestions we would be glad to listen to them. Todd Nelson stated you should get with the city and talk to Jason Dose. Mari Meds came in and he had to deal with them. The

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city's attorney had to look into some laws. Learn the laws. You don't have to be a licensed physician in the state of Washington to issue prescriptions. You could be a naturopath or holistic provider. The 45 plants is correct. The three to ten people don't have anything to do with the zoning. It has to do with the law. You have a medical use of authorization. It doesn't allow you to sell marijuana; it only says you have an affirmable defense at time of trial.

Dennis Pickard stated there's a disconnect that's not realized in the draft proposal between the production side and the distribution side. You mentioned that if the city adopted their regulations, you would move to the city. Does that mean you would be moving your entire operation, or just opening a dispensary. Todd Nelson explained as soon as it is countywide legal, I'll have a grow and a collective where you distribute to your three to ten collective members. That's the grey area that the people that are doing this for profit and doing this that we hear about egregiously in our community that the prosecutor and sheriff's department should go after, they take the other part that is not defined here. Right now in the RCW it doesn't say you can only have three to ten collective members in one collective on one plot of land. Technically you could have one in your house, one in a detached garage, and one in your attached garage. There are a lot of things that play into the scale of the operation. A forty-five lot grow, at \$1000 a light is about \$45,000. Whole sale is probably half that. That's a lot of money. The people that are doing this in compliance with the law selling commercially are trying to grow as much as they can. Todd Nelson explained he is a patient and was before he got into the business. I've tried to do it by compliance with the law and I intend to try to continue to do so.

Louis Cafoni stated he had a grandfather that died of prostate cancer and can still hear his screaming to this very day. My wife had cancer and went through chemo. She lost all the hair on her head, and she reduced me to a man crying because I had to shave off what little hair she had on her head. On March 1st I noted on Highway 3 across from Bayshore Golf Course is now rented out as Meri Meds and they have been active. The day I went by they had an ADT truck there and noted what he might be doing. The next day I drove into Shelton and I was given a map at the Shelton City Hall where she stated that's the county's problem, not ours. Same day I came to the county building and found out that the moratorium was still on. Work has been done on that building since March 1st, and even prior to that. Louis inquired if this was a lack of confidence and that the moratorium would go away? Even tonight coming in, the Meri Meds lights were on, and the Co-Op was in the window. He inquired if one person is able to buy from two different people. Todd Nelson responded they cannot. There is a fifteen day waiting period between buys. I went to the library and found a book called Gateway Drugs. It says in the book that the concentration of THC in marijuana has changed over the last several decades. This book was written in 2008. It has gone through what the flower people used to smoke from about 3% and now it's up to 10%, depending on the seed you cultivate. There is another book out by Rosie Boycott. She smoked a joint way back in 1968 and she even admits that the seed out there now is more potent than ever. She stated it should be regulated; one seed fits all. Instead Rosie Boycott claims that cannabis in and of itself is not an addictive drug but does lead some people to hard drugs. The seed should be only to let the pain go away, not to get you high. There are three or four different seeds that are grown in foreign countries that are brought in because people want a stiffer jolt. I believe there are people out there who need it but there are people out there that will get in on the coat heels of people who need it.

Public comment portion of the hearing was closed.

Cathi Bright inquired how much time it would take to put together a stakeholders group for input on this. Barbara Adkins inquired who you would consider to be stakeholders in this. Cathi Bright stated the sheriff, prosecuting attorney, and people who have testified here and have an interest. There are also patient advocacy groups with an interest. Barbara Adkins responded that she can only take a piece of that. We can't worry about whether the rest of that law is being implemented, or have the right authorization, or the right number of plants. We have to stay within the scope, and getting patient advocacy groups together in one room isn't going to happen. Cathi Bright stated we also need to involve the fire marshal. Jim Sims stated you can't reasonably expect the sheriff's department and the prosecuting attorneys to sit down in a public forum and talk about enforcement options. Barbara Adkins responded that to this point they have declined to do just that. Cathi Bright wondered if this even belongs in our regulations if you don't have the participation of the sheriff. Randy Neatherlin stated that is exactly our job.

Ken VanBuskirk stated he needs more information. He asked to be provided with what the state law actually

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says and also what the federal law says. I believe it's a Class I narcotic. Dennis Pickard stated the state has put us in a bind. Ken VanBuskirk stated he would like to see more in the definitions of how much a collective can grow. Barbara Adkins explained the reason there's not so much detail in this document is that it shouldn't be the responsibility of myself or my staff to go to anybody's garden and count their plants. We then become obligated to enforce it.

Jim Sims stated the moratorium expires on the 16th of May, so if we were provided all the background information to include what Lewis County developed, then we would be in a better position to meet on the matter on April 16th. Cathi Bright inquired what happens if we do nothing. Barbara Adkins explained that we don't put regulations in place, and don't extend the moratorium, it would expire and we would move on. Randy Neatherlin stated he would like to see a definition of collective garden, and separate the zoning with an actual gardening situation and a dispensary situation. We should put together zoning based upon them separately, not just together.

Barbara Adkins explained dispensaries were cut from the bill. The only thing in the bill is collective gardens. We can get a legal determination of exactly what a collective garden is. Jim Sims stated that just because the state law does not address dispensaries does not mean that Mason County cannot separately define dispensary versus garden. Randy Neatherlin stated it says that amendments to RCW 59.51A also provides that counties can adopt and enforce regulations pertaining to the dispensary of cannabis in its jurisdictions. Barbara Adkins stated she will get copies of the bill out to the PAC to describe these issues.

Ken VanBuskirk made a motion to continue the hearing and ask that we receive the additional information we've requested, which were the health department requirements, the RCW and any applicable federal laws, and the Lewis County regulations. Jim Sims seconded the motion. It was voted on and passed unanimously to continue the hearing until April 16th.

Rebecca Hersha opened the public workshop to review the proposed amendments to the Landslide Hazard Areas chapter of the Mason County Resource Ordinance. We currently have a landslide ordinance and there are some inconsistencies and some vague language that needs revising. It's also difficult for property owners to understand. It seemed really restrictive in some ways. There are two levels of reports. There's an assessment that's simple compared to the report, which is a more detailed engineering report that's required. People were getting frustrated over trying to figure out which report is required. An assessment was to simply determine if you were in a landslide area or a buffer; it wouldn't let you substitute an assessment for a report even if you were outside the landslide hazard area. That didn't make any sense. Also, there are some minor edits.

Kristy Buck requested a clarification of the language at the top of page 5 of the staff report regarding activities within 300 feet of a landslide hazard area. Kristy also noted on page 6 regarding the statement that talks about impacting slope stability and who decides that. Rebecca Hersha explained that it is actually an exception that wasn't in the language before. Rebecca explained it's difficult to say which of the exemptions were exempt before because of unclear wording we struggled with. Kristy Buck offered a revision to the draft that may say 'stormwater controls that impact slope stability'.

Cathi Bright stated when you're listing exemptions if the applicant requests this exemption for their particular project you can waive it if the department deems it to be reasonable. It can also be denied if the county deems so.

Rebecca Hersha stated we can make that change. Stormwater controls would be subject to the assessment but the requirement could be waived if the county determines that the proposal would not change slope stability.

Randy Neatherlin inquired about the danger tree section. Rebecca Hersha explained it's more like the danger tree exemption in our F&WHCA and Wetlands chapters. It's more like those with the addition of clarifications regarding process. Randy Neatherlin stated it makes it more restrictive on the land owner. Rebecca Hersha stated there was a problem because it was under the title of land clearing. Most removal of danger trees is not land clearing. We require people to get an approval from us, and the reason it seems restrictive is there's no point in having a danger tree exemption or allowance unless we can tell what we're

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exempting. The PAC had a discussion on a danger tree can be any potential tree within a tree length and a half from any structure. Perfectly sound trees can blow over. It was determined that the other chapters that have wording about this restriction, not have it be consistent with those chapters, and do back to the old wording, with the exception of giving the land owner the option to go to an arborist or the county for their approval.

After discussion by the PAC, on page 16 it was decided to eliminate the verbiage 'at the discretion of the Department'. Miscellaneous discussion regarding criteria for the 300-foot margin. The existence of Ken Neal's email in the staff report was questioned. Rebecca Hersha explained she sent emails out to several engineers and geologists that we work with and have gotten reports from and this email was included as being useful for the discussion. Rebecca Hersha stated she will discuss the email again with him and bring back further discussion for the upcoming hearing.

Randy Neatherlin recommended that Allan, for future hearing, put together a simple summary to simplify the introduction of the staff report. That would streamline the hearing. This is specifically for rezones.

Meeting adjourned.