

KITTITAS COUNTY PLANNING COMMISSION MEETING
Tuesday, April 25, 2006 @ 6:30 P.M.

COMMISSIONER'S AUDITORIUM
205 W. Fifth Street, Ellensburg

Those present: Chairman David Black, Grant Clark, Don Williamson, Well Bartsma and Scott Perna.

Also present: Community Development Services Director Darryl Piercy, Assistant Director Allison Kimball, Staff Planner II Joanna Valencia, Staff Planner Scott Turnbull, Staff Planner Noah Goodrich, Planning Commission Clerk Susan Barret and approximately 50 individuals representing applicant and public interest.

- I. Call to order and introduction of members and staff.
- II. Correspondence – No new correspondence was reported
- III. Approval of Minutes

Don Williamson moved to accept the minutes for the March 28, 2006 meeting as written. Grant Clark seconded and the motion carried with a unanimous vote of the board.

Don Williamson moved to accept the minutes for the April 11, 2006 meeting as written. Grant Clark seconded and the motion carried with a unanimous vote of the board.

IV. Old Business

A. O'CALLAHAN 14-LOT PERFORMANCE BASED CLUSTER PRELIMINARY PLAT (P-06-03)

The Chair opened the hearing to Planning Commission deliberation and motion

Grant Clark voiced concerns of the overall limited infrastructure's ability to support the areas substantial growth. **Black** voiced concern over the adequacy of the area water supply and roads. **Williamson** concern over the number of houses and the impact on wildlife, water, roads; and that currently there is not enough science on water recharge to make educated decisions; **Perna** agreed that water is an issue and stated concern for potential flooding. **Black** questioned Public Works over the plans for the area roads. **Randy Carbary** stated that Public Works is still in the design phase of development, there are no current plans for redesign of the intersection. The road itself is to be upgraded to support the current use. **Black** stated that part of the responsibility of the Planning Commission is to look at the water availability, infrastructure and impacts. Williamson stated that there are enough questions and concerns over water, infrastructure and environmental impacts to deny this project.

Don Williamson move to pass the O'Callahan 14-lot Performance Based Cluster Preliminary Plat (P-06-03) on the Board of County Commissioners with a recommendation for denial. David Black seconded and the motion passed with a 3/1 poll of the Board with Perna voting against.

The Planning Commission voted 4/0 to approve the suggested Findings of Fact with additions.

Jeff Slothower, representing the applicant in the Chamberlin Rezone, presented a formal challenge letter, **Exhibit A**, requesting under the Appearance of Fairness Doctrine that Well Bartsma recuse himself and not participate in the presentation and deliberation of the Chamberlin Rezone.

Well Bartsma chose to remain.

B. CHAMBERLIN REZONE (Z-05-16)

The Chair opened the hearing to Staff presentation; Staff Planner II Joanna Valencia submitted additional comments into the record as **Exhibit B-1** letter from Gordon Blossom; **Exhibit B-2** letter from Sandra Rivera; **Exhibit B-3** letter from John Matthews of Kittitas County Water District 4. Valencia presented her staff report by reading it into the record. Attached hereto and incorporated herein is a copy of that Staff Report.

The Chair opened the hearing to applicant presentation.

Jeff Slothower, 201 West 7th Avenue, Ellensburg, Washington, submitted **Exhibit C-1** a verbatim report of the proceedings from the January 23 hearing; **Exhibit C-2** the text of chapter 17.30 R-3 Zone; **Exhibit C-3** Chamberlin Rezone General Findings.

The Chair opened the hearing to Public testimony.

Linda Rubio, 1617 Goodwin Road, Thorp, Washington, presented **Exhibit D** Thorp and the Growth Management Act and read it into the record.

Stephanie Hanson, 901 Wehl Road, Cle Elum, Washington, spoke of the Thorp School District and how similar growth in Cle Elum has benefited the schools.

Don Page, 681 Goodwin Road, Thorp, Washington, submitted **Exhibit E** Soils Map, and spoke to water table issues; surface water; liability of building with high ground water; this area as a catch basin and prime farm land as indicated by the soil samples; and concern over water contamination.

Joy Fields, 1190 Thorp Depot Road, Thorp, Washington, testified against the rezone noting concerns for wildlife; lack of funding for schools; the drain on EMS services; loss of prime farm land.

Toni Stroscher, 3740 Robinson Canyon Road, Ellensburg, Washington, testified in favor of the rezone, speaks to the stagnation of the town; the decline in the school; loss of students and programs; stated that Thorp should actively direct it's growth and change.

Dave Fudacz, 9741 Thorp Hwy North, Thorp, Washington, testified that the Thorp School District is doing a good job and having the same financial problems as other local districts. Gave detailed description of water rights, irrigation systems and springs, his biggest concern is the water; natural springs; community well; and contamination of those resources.

Jim Depate, 830 Wade Road, Thorp, Washington, spoke to potable water and the buffering of Commercial Agricultural Lands, submitted **Exhibit F** and read it into the record.

Criag George, 322 East Taneum Road, Thorp, Washington, spoke in opposition to the rezone. He feels the land should remain ag-20 as a buffer; currently his farm faces problems resulting from

development; insufficient roads; water concerns; feels that his right to farm is being threatened; increased complaints from normal farming activities; increased trespassing and vandalism.

Bob Dlouhy, 6532 W. Taneum Road, Thorp, Washington submitted **Exhibit G** maps of Thorp Sub Area Urban Growth Node, Thorp Sub-Area and a letter of concern from K.C. Fire District 1. Gave a brief history of Thorp areas designations.

Lori Garland, primary concern is the loss of prime farm land, submitted into the record **Exhibit H-1** graph of farm acreage & **Exhibit H-2** 1997 Census of Agriculture

Pat Shopbell, 1001 Koffman Road, spoke in opposition of the rezone. Her concerns include the strain on the aquifer caused by too many single family wells, sewers, schools, law enforcement, animal control and the detrimental effect on the farms ability to conduct their business; and the economic impact of the farm industry leaving the valley.

BREAK AND BACK:

David Black moved to continue the Lesh Rezone, SLS Rezone and the Flanagan, Peterson, Whitehead, & Wald Rezone to the May 9, 2006 meeting at 6:30 in the Commissioners Auditorium to be scheduled as old business on the agenda. Scott Perna seconded and the motion carried by a unanimous poll of the board.

Piercy disclosed a discussion held during the break in which he advised the Commission to keep the decorum of the hearing in place.

Paula Thompson, 551 Goodwin Road, Thorp, Washington, spoke in opposition to the rezone submitted **Exhibit I** and read it into the record.

Allen Runte, 2121 Pasco Road, Cle Elum, Washington, Submitted **Exhibit J** and read it into the record.

Denise Anderson, 830 Wade Road, Thorp, Washington, submitted **Exhibit K** and reads into the record.

Rich Wilkins, 3280 Carroll Road, Ellensburg, Washington, read part of his letter (already included as part of the record) stating that the time for reviewing the rural designation is now, issues needing to be addressed are increased traffic, additional students, additional capital improvements. Submitted **Exhibit L** spreadsheet of Lower Kittitas County newly created parcels 1996-2005.

Joe Peck, 107 5th Street Alley, Roslyn, Washington, spoke in opposition to the rezone, stated that it is against county policies and state growth management act to convert resource lands into low density sprawl. His primary concern is the water supply and states there is no extra water in water short years thus we are creating a significant potential for draught. Stated that the drilling of exempt wells had gone up exponentially and asks that the commission looks at the cumulative impact on all county residents.

Judy Ross 71 E. Taneum Road, Thorp, Washington, stated that she feels this potential development will be extremely detrimental to the community of Thorp.

Jim Boyle, P.O. Box 39, Ronald, Washington, stated that he had two water studies done by public entities for this county dated 1981 & 1989. One was done for the development of Pine Loch Sun by

the Pacific Ground Water Group and the other is the Reconnaissance of water availability and quality in abandoned coal mines near Roslyn, Kittitas County. He stated that this county desperately needs a ground water survey and asks that this and all future rezones are denied until the Comprehensive Plan is completed and a ground water survey/study is done.

Ellen Fischer, 9580 Thorp Hwy North, Thorp, Washington, wished to express her concern over raw sewage coming onto her property and stated her agreement with Mr. Fudacz testimony.

Gordon Blossom, 10814 Thorp Hwy North, Thorp, Washington, testified in support of the rezone and said that Mr. Howe had come before the Thorp Water District Commissioners when he was still on the commission and it was agreed that he would join the water district and they would furnish the water; that the system was capable of serving 300 homes, it currently has 93.

Slothower rebuts that this property is, in fact, designated rural not prime farm land. He reiterated that this is all in compliance under current rules and policies. All County criteria have been met. The issues about water, roads, lot quantities are all speculation and, under the law, not to be engaged in for the decision making process. The rezone must be decided under current policies and laws. He stated that this rezone will not impact irrigation water delivery as current easements and water rights are protected. Slothower stated that current laws and the comprehensive plan are the guiding documents that should direct the decision.

The Chair opened the hearing to Planning Commission deliberation and motion

Williamson stated that policy is a guideline and that it can not cover all contingencies and even that we can not speculate on development he feels that we have an obligation to protect good farm land and the potential for detrimental effect is substantial. It is not in the general interest of the Thorp area residents and a better buffer in its current zoning. The resulting impact on the infrastructure, school system and fire department are negative.

Don Williamson made a motion to pass the Chamberlin Rezone (Z-05-16) forward to the Board of County Commissioners with a recommendation of denial. Well Bartsma seconded.

Discussion on the motion ensued. **Pernaa** stated that he felt the area can handle additional growth, that he believes in protecting farm land, but this is designated rural and the rights of the landowner should be protected. The rezone process is not the time to address the issues raised. He stated that he is still for the rezone. **Black** stated that the policy is clear, but the seven criteria are subjective and must be addressed. **Black** then began discussion by reading the seven criteria.

After discussion of the motion and vote the motion carried with a 4/1 poll, with Pernaa voting against.

The Planning Commission voted 4/1 to approve the suggested Findings of Fact with Pernaa voting against.

V. New Business

A. PASCO REZONE SEPA APPEAL (Z-05-28)

The Chair opened the hearing to the Pasco Rezone SEPA Appeal (Z-05-28) with the reading of the SEPA Appeal Process and the swearing in of all witnesses and those testifying in this appeal. Attached hereto and incorporated herein is a copy of the SEPA Appeal Process document.

Responsible Official CDS Staff Planner **Noah Goodrich** called Staff Planner **Joanna Valencia** and Community Development Director **Darryl Piercy** as witnesses and submitted **Exhibit M**, a list of Exhibits, into the record. **Appellant Mikki Douglass Runte**, 2121 Pasco Road, Cle Elum called no witnesses and submitted **Exhibit N**, letter in response to Administrative Review. **Proponent's Representative Mike Murphy**, 300 E. Pine Street, Seattle, called no witnesses and submitted no exhibits.

All those to testify and witnesses were sworn in.

The Chair opened the hearing to the Responsible Official Testimony. Staff Planner **Noah Goodrich** presented his staff report by reading it into the record. Attached hereto and incorporated herein is a copy of that Staff Report.

Cross-examination by appellant; Runte questioned if it is procedural policy for staff planners to include two separate and distinct dates for the written comment period on the notice of application. **Piercy** responded that is not standard policy and clearly was a typographical error. The department did honor the later of the two dates. The correct date of February 1, 2006 was published in the legal notice.

Appellants Testimony. **Mikki Douglass Runte** dropped the appeal on numbers 2 and 3, then began by addressing the application by reading into the record **Exhibit N**.

Cross-examination by responsible official; Piercy asked if the appellant was aware of any agency or individual that did not have an opportunity to respond to the SEPA documents as a result of the error. **Runte** responded that she was not aware of any such agency or individual and asked if Piercy was aware of any individual that didn't respond because they did not have the additional time to respond. Runte stated that both questions are speculative and therefore immaterial in this procedural appeal.

The Chair opened the hearing to the Proponent's Response. **Mike Murphy** stated that the standard for procedural errors has to do with material errors in the process and if the error is of no consequences or harmless it is to be dismissed as per the rules of reason standard. The appellant has limited her appeal to the date conflicts to which Piercy has reasonably responded. The burden of proof lies with the appellant and the appellant has stated that she is unaware of any agency or individual that was dissuaded from responding and therefore this issue should die.

Cross-examination by appellant; Runte asked the Proponent if he can prove that the mistake was harmless. **Murphy** responded that the burden of proof is on the appellant. **Runte** asked if the WAC regulations address the two conflicting date are acceptable. **Murphy** responded that the case law on materiality standards addresses administrative procedural rules and that there has to be some element of materiality that has adverse consequences.

Final Arguments: Goodrich clarified that this was a procedural element and recommends that the Planning Commission uphold the March 6, 2006 SEPA Mitigated Determination of Non-Significance and the mitigation requirements within said document. All those mitigated documents will be addressed at the rezone hearing. **Runte** stated that this was a procedural error; grounds for appeal; and asks that the Planning Commission to uphold the appeal. **Murphy** had no further comments.

Board Discussion: Clark stated that the appellant failed to prove any material harm.

Don Williamson made a motion to uphold the SEPA MDNS. Grant Clark seconded and the motion carried with a 4/0/1 poll of the board with Bartsma abstaining.

B. PASCO REZONE (Z-05-28)

The Chair opened the hearing to Staff presentation; Staff Planner Noah Goodrich submitted into the record letters from Halverson Applegate P.S and the Department of Ecology as **Exhibit O**, then presented his staff report by reading it into the record. Attached hereto and incorporated herein is a copy of that Staff Report.

The Chair opened the hearing to applicant presentation.

Wayne Nelson, PO Box 52, Cle Elum, Washington, of Nelson Developing Group, representing the applicant, gave a Power Point Presentation attached hereto and incorporated herein is a copy of that presentation as **Exhibit P-1** paper copy & **P-7** CD copy. Also submitted into the record, **Exhibit P-2**, letter from attorney Paul C. Dempsey of Halverson Applegate P.S.; **Exhibit P-3** letters from Phil Hess of Forest & Land Services, the Department of Ecology, State of Washington Water Measurement Device Installation and Operation Requirements, Department of Ecology Construction Notice, Kittitas County Water Conservancy Board Report of Examination, Geology and Hydrology of Surface Water/ Groundwater Pasco Water Right Change; **Exhibit P-4** Township Base Map; **Exhibit P-5** letter from the U.S. Departments of Agriculture; **Exhibit P-6** letters in support of the rezone.

Black moved to continue the Pasco Rezone to May 9th at 6:30 in the Commissioners Auditorium for the completion of the applicant's presentation, public testimony, Planning Commission Deliberation and motion. Williamson seconded and the motion carried.

The meeting was adjourned at 11:49 p.m.

Susan Barret, Planning Commission Clerk