

BOARD OF MASON COUNTY COMMISSIONERS' PROCEEDINGS

May 11, 2010

1. Call to Order – The Chairperson called the regular meeting to order at 9:00 a.m.
2. Pledge of Allegiance – Brenda Hirschi led the flag salute.
3. Roll Call – Present: Commissioner District 1 - Lynda Ring Erickson; Commissioner District 2 – Tim Sheldon; Commissioner District 3 – Ross Gallagher.
4. Correspondence and Organizational Business
 - 4.1 Correspondence
 - 4.1.1 The Economic Development Council of Mason County sent their first quarter report and notice that they are moving forward with the 2010-2011 Community Economic Development Strategy project list update.
 - 4.1.2 The Washington State Liquor Control Board sent notice of special occasion liquor license applications for Faith in Action and the Shelton-Mason Chamber of Commerce and notice of a new license endorsement for Beer/Wine tastings.
 - 4.1.3 The Washington Surveying and Rating Bureau sent Mason County's revised Building Code Effectiveness Grading Classifications.
 - 4.1.4 The United States Bureau of Indian Affairs sent notice of the Squaxin Island Tribe's application for aquisition of a 24.25 acre tract in Mason County.
 - 4.1.5 Several signatures were received in support of having a race track in Mason County.
 - 4.2 Presentation of Certificate of Good Practice from the County Road Administration Board. Commissioner Gallagher presented Bob Thuring with the Certificate of Good Practice.
 - 4.3 Staff Recognition – Utilities & Waste & Parks & Trails Departments. David Baker recognized Donna Adler from the Utilities and Waste Department and John Keates recognized Mark and Angie Stubblefield from the Parks Department. Commissioner Gallagher presented the Green Star Awards.
 - 4.4 News Release – National Public Works Week. Charlie Butros read a news release declaring May 16th through May 22nd as national Public Works week in Mason County.
5. Open Forum for Citizen Input –
 - 5.1 Nancy McMann asked the Board to answer questions regarding ADAGE. She is wondering if any of the Commissioners, in the past or future, will stand to gain financially, or in any other way, from ADAGE or it's affiliates. She is also wondering if the Board has received any campaign contributions of any sort from ADAGE and whether any of the Commissioners have gained in any other way from ADAGE or it's affiliates.

Cmmr. Sheldon replied that the open forum is not a question and answer period, but he answered no to all of Ms. McMann's questions. He explained that citizens can look at reports from the Public Disclosure Commission that disclose the financial situations for any elected official.
 - 5.2 Wayne Broughton stated that he has a solid waste issue and he would like to make an appointment with Commissioner Sheldon to discuss it.
 - 5.3 Brenda Hirschi pointed out that many times individuals have come to the open forum to ask questions and their questions have been answered. She believes that Commissioner Sheldon's behavior was over the top and inconsistent with past behavior.

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She also commented that there has not been a Lodging Tax Advisory Committee meeting for months because a revenue producer resigned. She was told there would be a meeting very soon to reconsider the Harmony Hill application. Since the Board can't find a revenue producer, she suggests that there be two producers and two spenders. She thinks the Board should declare one spender an at large member. She also thinks there should be more at large members in the Committee so there is more diversity in making recommendations to the Board. She thinks Harmony Hill deserves another look.

Cmmr. Ring Erickson recommended that Commissioner Gallagher, as Chair of the LTAC, hold a meeting of the Committee without a full compliment in the time being.

- 5.4 Theresa Jacobson commented that on the 27th of April at the Board of Health meeting there was some confusion regarding a meeting date. The meeting was May 6, 2008 and three Commissioners were present, as well as staff from the Department of Health. She was told a solid waste issue in her neighborhood would be a priority for clean up. According to the website there has been no action since May 6, 2008 and the problem has worsened.

Cmmr. Ring Erickson noted that a letter was sent to Ms. Jacobson regarding the issue. She would make sure she got another copy of the letter.

- 5.5 Michael Seargent spoke on behalf of the Deputy Sheriff's Guild. He wanted to speak to the Board regarding their financial decisions related to contract settlements. The Board has signed a Memorandum of Agreement with the corrections support personnel for wages and benefits. The numbers were accepted and ratified by the Union in September of 2009. The Commission failed to ratify the contract and negotiations continued. The County is now facing a \$90,000 impact. The Commissioners have decided that they don't have the money to pay and told the Sheriff that he is responsible for finding it in his own budget.

He stated that the Deputy's Guild has contacted the Board individually and in open meetings. On December 15th of last year Commissioner Sheldon and Commissioner Gallagher held a meeting in Belfair. The Guild talked to them at that time about their contract and asked where the monies would come from. They have been told that the Sheriff would not be responsible for pay and wage increases that the Commission agreed to. Commissioner Gallagher commented in a public meeting that the contracts for employees of the County were his number one priority.

He noted that at the end of the year the elected officials gave back large amounts of money from their budgets. Those monies were put back in the General Fund to help with all County bills. The Sheriff returned in excess of \$180,000 and has received over \$600,000 in grants. He understands that the Sheriff has an agreement with the Commission that those extra monies would be used for pay and benefit contracts. If the Sheriff is to find money from his budget to deal with the deputies, jail, corrections staff and support staff it will affect everyone. Commissioners in the past have said there is no HR person so contracts were put on hold and now the Commissioners are settling contracts with no HR person. He asks that the Commissioners plan for contract settlements for all contracts in the County. They need to be budgeted for.

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Cmmr. Gallagher responded that the Board instructed the Sheriff's office to look at his budget and see what he can come up with. There may be a supplement and there may not. They are already looking at the 2011 budget. There may be provisions for an increase next year. This year there haven't been any layoffs. A year ago there were 62 people. Hopefully revenue increases to satisfy the employees. Right now this is where the County is at. He noted that the Sheriff did \$200,000 in spending in the 13th month. He hopes the budget ends with a balance of 2.9 million. He believes it's going to be better this year. It's a difficult time for everyone. There were HR interviews yesterday and it has been narrowed down to two people so hopefully it can proceed. There has to be someone for the union representatives to talk to.

Cmmr. Ring Erickson commented that she didn't think that a new HR Director would come in and solve all of the problems. She thinks maybe it is time to look at closing the WSU Extension, Parks and Probation Services to cover the expenses. She would like to work with the Sheriff's office to see if there are cuts that could be made there in addition to cuts elsewhere.

6. Adoption of Agenda - **Cmmr. Ring Erickson/Sheldon moved and seconded to adopt the agenda as published. Motion carried unanimously. RE-aye; S-aye; G-aye.**
7. Approval of Minutes – April 19, 2010 briefing minutes and May 4, 2010 regular meeting minutes.

Cmmr. Sheldon/Ring Erickson moved and seconded to approve the April 19, 2010 briefing minutes and May 4, 2010 regular meeting minutes. Motion carried unanimously. RE-aye; S-aye; G-aye.

8. Approval of Consent Agenda:
 - 8.1 Approval to reappoint Darryl Cleveland to the Mason County Board of Equalization for a three-year term ending May 31, 2013.
 - 8.2 Approval to appoint Sunny Richwald to a three-year term ending May 2013 on the Solid Waste Advisory Committee (SWAC).
 - 8.3 Approval of the resolution amending the Mission and Goals for the Transportation Improvement Program Citizens Advisory Panel (TIP-CAP). **Resolution No. 35-10 (Exhibit A)**
 - 8.4 Approval of the resolution for County Road Project Number 1936, North Shore Road, for a road repair and stabilization project and authorize the Chair to sign all pertinent documents. Also authorize the Public Works County Engineer to advertise, set bid dates and times, and award the contract. Contract awards will be announced during a regular meeting of the Board. **Resolution No. 36-10 (Exhibit B)**
 - 8.5 Approval of the Veterans Assistance Fund application for: Martin T. Triplett – Utilities \$600.00 as recommended by the Veterans Assistance Fund Screening Committee.
 - 8.6 Approval to amend the rental rates for Memorial Hall effective June 1, 2010. The rental rate, per event, shall be increased to \$100 from \$50. The cleaning deposit shall be increased to \$50 from \$25 and a \$100 damage deposit shall also be required. The cleaning deposit and damage deposit may be returned.
 - 8.7 Approval of the Memorandum of Understanding for the AFSCME bargaining unit for a three-year extension of the current collective bargaining agreement with added provisions regarding employees recalled from layoff and annual contract negotiations for wages and health care insurance.
 - 8.8 Approval to appoint Gary Yando to the Mason Stormwater Management Advisory Taskforce. The Taskforce will assist staff in implementing the Department of Ecology stormwater grant and they will work with a consultant to assist in crafting financial options to fund stormwater improvement activities in the future. They will also be charged with developing methods to involve more of the public in our efforts to protect water quality in Mason County.

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Cmmr. Gallagher noted that his wife is a member of AFSCME so he will not vote on item 8.7. The item was removed for a separate vote.

Brenda Hirschi had a questions regarding item 8.8.

Item 8.8

Brenda Hirschi stated that she did not see a copy of Mr. Yando's application in the public information binder. She wanted to know how Mr. Yando responded to the conflict of interest portion of the application.

Allison Chamberlain replied that she didn't read anything about a conflict of interest. It would have caught her attention. She has talked with Mr. Yando and he feels that he has a background with stormwater and has a lot of experience to offer.

Cmmr. Ring Erickson asked that the applications be included for the public to review in the future. She recommended that the item be tabled until the citizens can review the application.

Item 8.7

Cmmr. Ring Erickson stated that she didn't want to vote on this item because her name is spelled wrong on the agreement. She had asked HR to address it and it hasn't been changed. She is sorry to delay things but she has reservations about signing something with her name misspelled.

Cmmr. Sheldon noted he would like to hear from elected officials and directors of AFSCME employees. He would like them to write a letter stating whether they are satisfied with the provisions of the contract. He would also like a full analysis of cost from the Auditors office.

Cmmr. Ring Erickson/Sheldon moved and seconded to table item 8.7 until June 8, 2010, with direction to the elected officials and department heads of AFSCME employees to send a letter to the Board stating whether they are satisfied with the provisions of the contract. Motion carried. RE-aye; S-aye; G-abstain.

Cmmr. Ring Erickson/Sheldon moved and seconded to table item 8.8 until May 18, 2010. Motion carried unanimously. RE-aye; S-aye; G-aye.

Cmmr. Sheldon/Ring Erickson moved and seconded to approve Consent items 8.1 through 8.6. Motion carried unanimously. RE-aye; S-aye; G-aye.

9. 9:30 a.m. Public Hearings and Items Set for a Certain Time.

- 9.1 Public hearing on the request by Port of Grapeview to rezone one parcel (1.74 acres) at Grapeview Loop Road and Okonek Road in the Grapeview Hamlet; request involves the rezone of this parcel from Rural Residential 5 to Rural Commercial 3 zone.

Allan Borden, Department of Community Development, presented the staff report. He explained that the report was presented to the Planning Advisory Commission on October 26, 2009. The request is 1 parcel, 1.74 acres in size, located at the intersection of Grapview Loop Road and Okonek Road. It is within the Grapeview Hamlet, which is a zoning designation that is equivalent to a Rural Community Center. The property is currently zoned Rural Residential 5 and the request is to go to Rural Commercial 2 or Rural Commercial 3. This is to correct mapping error made by the County. The mapping error was brought to the department's attention in the middle of 2009. The property was bought by the Port in 1990 and was included in the Port's Comprehensive Plan in 1992. The location was designated for

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potential commercial development. When the County did the initial zoning in 2002 the property was recognized as being rural and in the Hamlet, but not zoned for commercial use. There were no physical improvements to cause the County to zone it otherwise.

Community Development processed the request as a corrective rezone request. For that reason, staff only used review criterion 2 and review criterion 8 to review the request. Based upon the information provided by the Port to the County, criterion 2 shows this is a consistent designation. It was expected that properties within the Hamlet would change zoning depending on demand. Because there are commercial uses, non-residential uses and community uses in the vicinity, it is a consistent designation to go to Rural Commercial.

The question arises of which Rural Commercial would be appropriate. In the Hamlet Rural Commercial 2 and Rural Commercial 3 are allowed. Staff recommends Rural Commercial 3 to give the Port some flexibility on what they can allow. The standards under Rural Commercial 2 are a wide variety of moderate intensity land uses, such as restaurant retail, nursery, local community center and general store. Rural Residential 3 includes those land use plus other land uses affiliated with tourist uses, such as marinas, RV parks, campgrounds and lodging facilities. Under criterion 8, because this was included in the Port's Comprehensive Plan, staff agrees that a mapping error was likely made. Staff recommends approval of the request.

Questions for Staff

An audience member asked if the hearing was published in a newspaper.

Mr. Borden responded that it was.

Cmmr. Sheldon asked if it is staff's opinion that RC2 and RC3 are both applicable zoning for a hamlet.

Mr. Borden thought that was correct. He explained the reason he came to that conclusion was because of the rezone criteria in the development regulations. It says that Rural Commercial 3 shall not be allowed outside of a Rural Activity Center or Hamlet.

Cmmr. Sheldon asked when the development regulations were adopted.

Mr. Borden answered that it was done in 2005.

Cmmr. Sheldon asked if previous to the adoption of those regulations, the most ambitious zoning allowed in a hamlet was RC2.

Mr. Borden stated that is correct. He explained that when the initial zoning was done in 2002 most of the land uses were in the Rural Commercial 2 zoning.

Cmmr. Sheldon asked if it was two years ago that changes were made to the Rural Activity Centers for permitted building sizes.

Mr. Borden responded that is right.

There was no public testimony.

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Cmmr. Ring Erickson/Sheldon moved and seconded to approve the request by the Port of Grapeview to rezone one parcel (1.74 acres) at Grapeview Loop Road and Okonek Road in the Grapeview Hamlet; request involves the rezone of this parcel from Rural Residential 5 to Rural Commercial 3 zone. Motion carried unanimously. RE-aye; S-aye; G-aye.

- 9.2 Public hearing on the request by Peninsula Topsoil LLC to rezone two parcels (41.5 and 27.91 = 69.41 acres) at the end of Timberline Drive and west of the Belfair Urban Growth Area; request involves rezone of these parcels from Rural Residential 20 to Rural Residential 10 zone.

Allan Borden, Department of Community Development, presented the staff report. The staff report is much the same as the one that was presented at the Planning Advisory Commission meeting that took place on January 25, 2010. The report includes the description of the proposal, the application from Peninsula Topsoil and map exhibits. He has received public comments. He also included the Planning Advisory Commission minutes from October 26, 2009, where a preliminary decision was made, and meeting minutes from the November 3, 2008 Planning Commission meeting regarding a different request by Peninsula Top Soil on the same property. The request in 2008 was to go from Rural Residential 20 to Rural Residential 5.

The proposal at hand is rezone request 2009-02. It is a request for two properties, totaling 69.41 acres, to go from Rural Residential 20 to Rural Residential 10. The property lies west of the Union River, partly in the floodplain of the river. Most of the property is on sloped lands. The current land use is a sand and gravel operation in the center of the property. There are a lot of issues involving critical areas because of the streams, adjacent floodplains and the slopes. The surrounding zoning to the north is Rural Residential 20, to the east is Rural Residential 20, to the south is Rural Residential 20 and to the west is Rural Residential 10. A portion of the property to the west is owned by Peninsula Topsoil, but it is not involved in the rezone. The property is accessed by Timberland Drive, which comes from Old Belfair Highway. A SEPA was done in October in 2009 with comments regarding the existence of the stream, wetlands and slopes on the property.

There are 8 rezone criteria that need to be reviewed. Several criteria are more focused on this request. When a property is zoned Rural Residential 10 there is half the development density. On a 40 acre piece of property under Rural Residential 20 there could be 2 lots. On a 40 acre piece of property under Rural Residential 10 there could be 4 lots. Under both of these zonings a performance subdivision could be done to double the density. Under Rural Residential 20 you could have 4 lots instead of 2 and under Rural Residential 10 it could go from 4 to 8. In order to do the performance subdivision the critical areas would need to be set aside as conservation areas. Areas could also be set aside for open space as part of the subdivision process. Under Rural Residential 5 the County does not provide density bonuses and doesn't require conservation areas to be established during the subdivision process.

Criterion 2, which is the consistent zone designation, is one of the leading aspects in the review of a proposal to go from one rural residential zone to another. The subject properties are in the vicinity of Rural Residential 20. The sizes of the parcels that lay in the vicinity that are Rural Residential 20 vary from 1 acre in size to 100 acres in size. Primarily, they are less than 20 acres. The Rural Residential 10 properties to the west are much larger pieces of property, from 17 acres to 40 acres.

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Mr. Borden presented several maps that show the surrounding zoning and the contours of the property.

He noted that there are critical areas present. The property is fairly extensive and the critical areas could be addressed in the subdivision process. With a total acreage of nearly 70 acres, it is only a fraction of the intensity of development that would be in an Urban Growth Area. Criterion 3 is whether the proposed rezone will create sprawling low-density development or create incompatible uses with resource base uses. There is a band of RR10 property that separates it from the Long Term Commercial Forest land to west, so it is not likely that there would be a conflict between resource base uses and subdivision of the property. With any subdivision there would be some change in traffic and the demand for fire protection and police, but not to levels beyond the expected levels of service.

Criterion 6 has to do with critical areas, open space and protecting air and water quality. The proposed rezone would increase the number of lots possible by 6, from a potential of 10 to a potential of 16. Criterion 7 has to do whether approval of the rezone would cause pressure to change other land use designations. He doesn't feel that is going to happen, primarily because of the size of the properties in the vicinity. Very few are in excess of 20 acres in size. In conclusion, staff recommends approval because the proposal meets the criteria.

Questions for Staff

Commissioner Gallagher noted that the area experienced tremendous flooding a year or two ago. He asked if there is a floodplain with the Union River and what the restrictions are.

Mr. Borden responded that there is a mapped floodplain with certain base flood elevations marked on the map. The County's flood damage reduction ordinance states that if development is proposed and is built one foot above the mapped base flood elevation, it will meet the County's requirements.

Cmmr. Gallagher commented that the application for Rural Residential 5 was denied.

Mr. Borden replied that the application received a recommendation of denial from the Planning Advisory Commission.

Ken VanBuskirk asked how old the floodplain map was.

Mr. Borden answered that it is from 1988.

Andrew Graham asked if the recent flooding expanded beyond the floodplain on the map.

Mr. Borden stated that it probably did. The floodplain boundaries marked on the map are the best information available. It is based upon information from the mid 80's so it doesn't include the fluctuations that have taken place in most of the county in the late 90's and early 2000's.

Mr. Graham asked if this is all based old information instead of trying to find updated information.

Mr. Borden explained that the County doesn't have the authority to delineate from the mapping available. Mapping of floodplain boundaries has to be done by FEMA.

Cmmr. Sheldon noted that there are several steep slopes on the property. The Forest Practice application also noted steep slopes. He asked if Mr. Borden has reviewed that application and if he saw anything that might raise a red flag.

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Mr. Borden stated the slopes are not an unusual situation. Peninsula Topsoil is operating under two programs under the Department of Natural Resources, Forest Practices for timber removal and a surface reclamation permit for the sand and gravel operation. Sometime those operations are at odds. A Class 2 FPA is not a conversion. It would be reviewed by DNR instead of local planning staff. A FPA requires replanting and surface reclamation does not so there is a conflict.

An audience member asked if the timber areas are privately owned.

Mr. Borden replied that the timberland is owned by the property owner, but in order to harvest on private land there has to be a State Forest Practice application.

The audience member asked how many acres are under timberland.

Mr. Borden responded that there are 25-30 acres that are in timber production.

Cmmr. Sheldon asked if all 69 acres are classified as timberlands for tax purposes.

Mr. Borden didn't know the answer, but he doubted it because the land closest to the river is not being managed for timberland.

Public Testimony

Robert Thorpe stated that he represents the landowner. There is a fairly extensive record. It has been before the County before as Rural Residential 5. The Planning Commission had a split vote and recommended denial so they withdrew the application before it came before the Commissioners and modified it. They worked with staff regarding their concerns. There is a detailed report from his staff as well and it agrees that 7 criteria are met. There is a detailed analysis of the Comprehensive Plan. Page 3 of the report looks at RU 500, 501, 502, 503 and 521 and shows how the application is highly compatible with those Comprehensive Plan criteria.

It is an interesting anomaly because the property is near over 30 parcels that are between 1 and 6.2 acres. The norm in the area is 6 to 7 acres. This rezone would speak to correcting that anomaly. There has been a Forest Practice permit with a wrong box checked. The intent was to convert but they have gone back to replant for DNR. What the applicants are moving towards is an exhaustion of the resource and then converting it. The County staff recommended this. The Planning Advisory Commission voted 3-0 and the Chairman spoke in favor. He noted that at one hearing a Planning Commissioner spoke against the application and then recused himself because he had a conflict of interest. That troubled him. There is a precedent because the Board approved the Armstorng rezone, which has very similar characteristics.

He also wanted to respond to the letters that were received. Regarding the one concerning floodplain, there is a requirement to have a hydrologist go out and sight the floodplain. In this day in age houses are clustered out of the floodplain. In terms of the fecal matter in the area, there is an airport, industrial park, a dam, and a solid waste landfill in the drainage basin. 4 or 5 more houses compiling with septic regulations will not contribute to the problem. That isn't the issue that needs to be figured out now. It will be done at the subdivision stage. The goal is to bring the property to residential development. Some people want 5 and 10-acre parcels. This will respond to the rural life style than people move to this county for. The record is very clear. It says this is a reasonable rezone, it's timely, it's consistent with the comprehensive plan and the 8 criteria are met.

Cmmr. Sheldon noted a question was raised at a Planning Advisory Commission meeting regarding performance zoning.

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Mr. Thorpe responded that the term is referred to as cluster development and stated that the Johnson's are committed to exploring green options.

Cmmr. Sheldon thought the family stated they would prefer not to do the performance zoning.

Mr. Thorpe clarified that the family would prefer not to do the cluster development. They would want 6 10-acre lots, without the additional 6 bonus lots.

Cmmr. Ring Erickson noted that the Board could take that into consideration, but in a zoning change nobody is committed to following through with it. The current owners could sell the property and the new owners could do whatever was allowed with the zoning designation.

Mr. Thorpe presented the Board with his staff's response to the questions asked about the Union River study.

Ken VanBuskirk noted that Mr. Thorpe brought up the appearance of fairness issue. After the Planning Commission hearing he researched the matter and brought it to the attention of Ms. Adkins. Ms. Adkins arranged for a short course for all of the PAC to attend and he attended. A believes all of the members of the PAC would benefit from training on the appearance of fairness doctrine. A reasonable person could look at the record on this matter and conclude that there is an appearance of a conflict of interest because one of the other members of the PAC is in a financial relationship with one of the applicants.

He wanted to emphasize several areas in the supplemental information that Mr. Borden provided. As he mentioned in the Armstrong rezone, the zoning of these subject properties, the Union River Valley and the Urban Growth area did receive thorough and considered examination. They went before the Growth Management Hearings Board and were found to be compliant. He believes precedence was set when the Board approved the Armstrong rezone, which is less than 2000 feet away from this subject parcel. The proposed change of zoning has the same potential to create pressure to change other land use designations. In the Union River Valley there are 5 other RR20 parcels totaling 450 acres. There are 8 other RR10 parcels totaling 500 acres. The proponents of the rezone purchased the property with full knowledge of the existing zoning. There was some discussion in the October PAC meeting that there had already been a boundary line adjustment to allow a house for a family member.

Regarding the reclamation plan for the gravel pit, he thinks considerable deference should be given to Sandra Staples Portner of the Great Peninsula Conservancy. She strongly believed that the reclamation of the gravel mine should be complete before any rezone application is considered. In addition, according to section 506 of the Mason County Comprehensive Plan, subdivisions, short subdivisions or large lot segregation should be prohibited in Class 1A and Class 1B mineral resource lands prior to their full utilization. The applicant states in their gravel permit that they expect the pit to be open for 60 years at a 50,000 cubic foot annual production rate.

Part of the supplement information that Mr. Borden provided was regarding the development moratorium that was placed on the property as part of the Forest Practices Act. The replanting of trees was not implemented, the roads were not decommissioned and the property is now overgrown with scotch broom. He feels that reforestation of the land should also be established prior to any discussion about rezoning.

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In conclusion, there appears to be a high likelihood that approval of the rezone request may result in future rezone requests. One significant issue that has come to light since the January 25th PAC meeting is the release of the Department of Ecology's release of the Union River monitoring report. Another major concern is the property's proximity to the Urban Growth Area. The RR20 in the Union River Valley was a strategy recommended by the Planning Department and the Hearings Board. The Board of County Commissioners at that time held public hearings and determined that the zoning was appropriate and the Growth Management Hearings Board found it to be compliant.

Cmmr. Sheldon asked if the output of the gravel mine was 50,000 cubic feet per year or 50,000 cubic yards.

Mr. VanBuskirk thought that the application said cubic feet.

Gary Parrot noted that he sent in a public comment yesterday. He stated that the Union River Valley is a critical area. Studies show that high levels of pollution are coming down the river. He is nervous about a zoning change that would increase development in the Union River and would form a precedent for more development before there is a handle on the pollution that is already coming down the river.

Jack Johnson explained that he is one of the partners of the applicant, Peninsula Topsoil. He wanted to address the comments regarding steep slopes. This is an active mine that has high walls. There is mining and reclamation going on. There is topography that is fairly steep from sand and gravel deposits. It is not a noted slide area. Mr. Thorpe indicated that they have replanted, but they have not. They have agreed with the DNR to replant. There is a floodplain on one portion of the property that adjoins the Union River. It is a small portion of the property and they have no intentions of building in that area.

At the original RR5 zoning request they weren't represented at the Planning Commission. He didn't even know the meeting occurred. He and Mr. Thorpe sat down with Allan Borden to talk about the proposal before it was resubmitted. The conflict that Ken VanBuskirk referred to was regarding a member of the Planning Advisory Committee, Debbie Jacobs. He hardly knows her. He knows that her husband is Fred Barrett and she is active with the Boys and Girls Club. He has only talked to her 5 times before the Planning Committee meeting and he isn't the sole applicant on this rezone. Mr. VanBuskirk was referring to the sale of his farm to the Pacific Northwest Salmon Center, but he only dealt with Neil Warner, never Fred Barrret. He doesn't believe there was a conflict, but it was all disclosed the second time they went in front of the Planning Committee.

They are asking to rezone roughly 70 acres from RR20 to RR10. There is a gravel mine operation on the property. They still have considerable resources but they are planning for the closure and reclamation of the mining operation. A favorable decision could expedite the closure and reclamation, leaving the Bear Creek pit as the sole source of materials.

He also wanted to address Mr. Dobey's letter. He though it was unusual for a County employee to comment independently. Mr. Dobey sights the Union River study, but he doesn't see where it is relevant. The project does not create competition with utilities inside the UGA. The UGA cannot provide 10-acre parcels. Not everyone wants to live in the urban development demanded by GMA. You won't be able to have a garden, chickens or horse in Belfair UGA in most cases. The additional homes that could be provided in this rezone of 70 acres could be put in one acre in the UGA. That is one of the reasons it is important that they don't do clustering. It is important for people to have 10-acre parcels so they can have pets. There are a lot of people that would choose that life style. Mr. Dobey stated that he doe not like allowing septic tanks and wells outside of the UGA. It doesn't make sense for someone who wants a 10-acre parcel to locate it in Dewatto.

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Ken VanBuskirk reports Peninsula Topsoil to Ecology and DNR on a regular basis. Peninsula Topsoil has an excellent relationship with DNR and Ecology in all of its operations. Mining is a complicated business and they pride themselves in safety. Mr. VanBuskirk's claim of reforestation has nothing to do with the rezone. A gravel mine is a consumable resource and in their eyes, reforestation will occur as reclamation occurs. Mr. VanBuskirk's complaint is being discussed with DNR and Peninsula Topsoil has agreed to reforest those areas that could likely be mined before the timber matures. Mr. VanBuskirk has also added the Union River study to the records and he cannot see how it applies. The Union River flows out of Kitsap County where most of the study was done. Mason County has stricter critical area ordinances than Kitsap County. Current septic regulations and technology allow for a very effective way of treating and disposing of single-family home waste.

On April 13th the Board of Commissioners approved a rezone for the Armstrong's that was RR20 to RR5, which was 2,000 feet to the north of this rezone application. It was just as close to the UGA, but it didn't have letters against it from John Diehl or the Great Peninsula Conservancy, of which Ken VanBuskirk is on the Board of Directors. The Planning Advisory Commission has approved this rezone twice and the Community Development Department is recommending approval. He asks the Board to approve this rezone also.

Cmmr. Sheldon asked if the Armstrong rezone was from RR20 to RR10.

Mr. Borden answered that it was from RR20 to RR5, but it was only 20 acres in size.

Cmmr. Sheldon noted that Mr. Johnson's explanation to the Planning Commission was that he would not be asking for a performance subdivision if the rezone were approved for an RR10. He asked if that is still a statement that Mr. Johnson stands by.

Mr. Johnson replied that it is. They wouldn't go for a performance subdivision because animals wouldn't be allowed and there wouldn't be fenced 10 acres.

Mr. Thorpe noted that there is an interesting Superior Court case in which the judge very clearly stated that speculating on future development isn't a point of consideration. These should be taken on the present merits without speculating on what will happen in the future.

Cmmr. Sheldon stated that he has read through all of the documents and he recalls the recent Armstrong rezone. He proposes approving the motion to change the designation from RR20 to RR10 with a provision that a performance subdivision would not be allowed in the RR10. That would limit number of lots.

Cmmr. Ring Erickson wasn't sure that could be done.

Mr. Borden thought it would be akin to contract zoning, which has a condition of approval. The County has done that one other time with a rezone within the UGA. It limited the kinds of land uses that could take place on the change in zoning.

Cmmr. Sheldon noted that it is a unique property. There is gravel mining, forest products activity and the potential for development. If the applicant isn't interested in performance zoning that would limit the number of lots. The lots would be no less than 10 acres, which would be a large lot to purchase.

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Cmmr. Ring Erickson wanted to investigate the question and get a legal opinion. She is generally okay with this rezone because there is consistency in the area. There aren't a lot of urban creep issues. However, right now it is an active mining operation and until those practices stop she would be somewhat reluctant at looking at the change in designation.

Cmmr. Sheldon/Ring Erickson moved and seconded to close the public hearing and continue the Board's decision to June 8, 2010. Motion carried unanimously. RE-aye; S-aye; G-aye.

10. Other Business (Department Heads and Elected Officials) –

10.1 Mark Core, Department of Community Development, announced that the WA Surveying and Rating Bureau has changed Mason County's building code classification from a Class 4 to a Class 3. The classifications range from a Class 1 to a Class 10, with a Class 1 being the best.

10.2 Emmett Dobey, Utilities and Waste, wanted to correct an error that occurred this morning. A contractor inadvertently put up a sign that stated that State Route 3 was going to be closed from May 17th to the 21st and again from May 24th to the 28th. It should have read that State Route 300 would be closed from SR 3 east to Clifton. This should end all of the work in the North end.

11. Board's Reports and Calendar - The Commissioners reported on meetings attended the past week and announced their upcoming weekly meetings.

12. Adjournment – The meeting adjourned at 11:25 a.m.

BOARD OF COUNTY COMMISSIONERS
MASON COUNTY, WASHINGTON

Ross Gallagher, Chair

ATTEST:

Lynda Ring Erickson, Commissioner

Shannon Goudy, Clerk of the Board

Tim Sheldon, Commissioner