

ISLAND COUNTY COMMISSIONERS - MINUTES OF MEETING

SPECIAL SESSION - DECEMBER 5, 1997

JOINT BOARD OF COMMISSIONERS AND PLANNING COMMISSION GMA COMP PLAN WORKSHOP NATURAL RESOURCE LANDS

The Board of Island County Commissioners met in Special Session on December 5, 1997, beginning at 9:30 a.m. , Island County Courthouse, Hearing Room I, Coupeville, Wa. The purpose of the special session was to provide an opportunity in joint workshop for the Board to meet with the Planning Director and staff, Island County Planning Commission, and Keith Dearborn, to discuss planing issues and review the schedule for completion of the GMA Comprehensive Plan. The specific agenda for today's workshop was: **Natural Resource Lands: Agricultural, Forestry and Mineral.**

Attending today's workshop were:

Board of County Commissioners: Mike Shelton, Chairman; Wm. L. McDowell, Member and Tom Shaughnessy, Member

Planning Commission: Tom Olsen, Ann Pringle; Rufus Rose; Bill Vincent

Consultant: Keith Dearborn and Elaine Spencer, Bogle & Gates; Mike Stevens, assisting Bogle & Gates in researching Ag and Fm issues.

Staff: Vince Moore, Director, Planning & Community Development; Donna Keeler, Comprehensive Planning Manager, Matt Nash, Senior Planner; E. Meyer, Adm. Asst. to Board.

Others Present: Approximately eight people were in the audience [Attendance list on file].

1) ADMINISTRATIVE ITEMS

Planning Commission recommendation [corrected date 12/2/97] provided in preparation for Monday's Public Hearing on Non-Residential/Mixed Use Areas of More Intensive Rural Development.

Mr. Dearborn mentioned that Larry Kwarsick, Island County Public Works Director, had had an opportunity to review the County Wide Planning Policies and raised an issue that will need to be addressed at the hearing on Monday, if Island County intends to create non-residential RAIDS that have expansion areas. County Wide Planning Policies now say to expand existing non-residential areas they need to be UGAs. That policy was adopted before the 1997 GMA amendments and that policy needs to be reviewed because the logical outer boundary of a non-residential RAID can include additional land. Also, a letter has been received from the City of Langley suggesting the City's desire to engage in some discussion with the County before adoption of the Plan on planning policies with the cities.

2) NATURAL RESOURCE LANDS

Three issue papers handed out dated 12/5/97: Agriculture, Forestry and Mineral Lands

Planning Commission subcommittee who worked on the Issue Paper: Olsen and Pringle.

Agriculture

Matt Nash reviewed the Agriculture Issue Paper. Criteria in GMA is explicit in some ways but not explicit enough in other ways. Key words to consider in making designations are: "commercial production" and "primarily devoted to". One area of caution is to not over designate or under designate. The most important criteria is existing soils – referring to a set of maps he brought today showing SCS prime Ag Farmland soils, and overlain on those, existing Ag tax

program status of 20 acres or larger to give an idea of how soils relate to Ag lands. There are a lot of farmlands not anywhere near the SCS identified prime farmland soil, and there are a lot of farms that do lie on these soils which extend beyond or to some degree beyond their boundaries.

The Chairman asked about having correct verifiable data in terms of soils for Ag designation, in that SCS is largely governed by people in that field and some believe that the designations are not up to date or correct.

Mr. Nash thought that might be, but it depended on what was meant by verifiable; 1958 is the latest mapped version of soils in the County in digitized form to use. As far as the borders of those soils, that may be questionable, but that is what is available in terms of using the best available information right now. Should SCS come up with additional criteria from that set of soils and pull out subsets considered prime Ag soils, fine, but until then he thought the County was on solid ground using the information available now.

Mr. Dearborn recalled this issue having come up in 1983 as far as accuracy of the SCS maps and found that the maps were fairly accurate, but not precise. The then Commissioners provided a six-month period for any property owner to raise a question about the mapping; the burden was on the County to demonstrate maps were accurate. Property owners were invited to provide specific soils information on their property to demonstrate that SCS map base was inaccurate. Mr. Dearborn suggested the Board may want to consider something similar to that again.

Mr. Rose remembered that that process authorized the County to only point at the SCS maps and tell the property owner to prove the County wrong, which put the burden back on the property owner to have surveys made at their own expense. An example would be Miller Lake off Maxwelton Road, a 14 acre lake all of which is regarded as prime Ag land, yet it is all wetland, none farmable, except that which has been historically farmed.

Elaine Spencer did not suggest approaching the notion of redoing the soils map simply because it is not feasible; SCS did it once and soils don't change over time. We can see by looking at the maps:

1. Areas that are subject to Ag taxation as mapped may not actually be devoted to commercial production of Agriculture and there needs to be a process to take those lands out. Those lands that are not in commercial production the fact they have prime soils by somebody definition does not make them subject to designation under the GMA
2. May see that what USGS defines as prime may not actually correlate with the good Ag soils in Island County, and there may be some areas that are principal productive areas in Island County that are not mapped as prime and therefore may chose to include some areas that are not mapped.

Mr. Nash stated that the County did not need to have as a criteria "in or out" – we do not need to use the soils that way, rather we should use soils to guide in terms of where are these soils and where are the lands and document how we use this information and what it tells us and come up with a reasoned choice based on that information. Another question regarding designation criteria for Ag lands is tax status; while tax status is a useful piece of information, it is not in and of itself accurate to say that all parcels in the tax program should be designated as Ag lands of long term significance, but does show where large contiguous farmed areas are and shows all lands that are in the program are not necessarily primarily devoted to agriculture nor of long term commercial significance. Based on information to date, it is a safe conclusion to say that all lands primarily devoted to Ag long term commercial significance are in the tax program. Another important distinction to make is between lands which are being casually farmed or farmed for more lifestyle reasons then they are for commercial production; it is not appropriate to designate as lands of long term significance family farms. On the other hand, someone who has a 5 acre farm and raises a specialty crop and is farming that land intensively and marketing product successfully and making money on it, though it may not have long term commercial significance, but cumulative the lands put together probably do have long term commercial significance, and it is appropriate to develop criteria that accommodate making that distinction.

Mr. Dearborn commented to note the premise is, this is a matter of distinguishing between lands being used Ag that are of long term significance and those that are not. That does not mean that those that are not will not have protection and some measure of zoning.

Ms. Spencer stated that the candidate lands are all lands primarily devoted to commercial production of Ag; then there is a question of what size parcel has long term commercial significance and the County will probably need to establish a cut off . For example, someone may be farming mushrooms on 1 acre which probably is not of a size that can be protected, but 20 acres would be a "given". There is some level in between the County will need to decide where the cut off is. Nothing guarantees the land won't be fallow, but clearly if any group of lands are of long term commercially significant it would be those large blocks where development rights have been sold. The opposite end of the spectrum is the scattered 5 acre parcels where the question becomes when that owner leaves the business: it is the land and the industry being protected, not individuals.

Commissioner McDowell was interested in the statement in the Issue Paper on Page 2, B, protection of resource lands – first bullet, and asked if that should not be extended to say "of long term commercial significance". Ms. Spencer clarified that the first issue is, what lands must be designated as Ag lands under 36.70A.170, in 060, paragraph B requires protection of those lands. One caveat is that under 170 we are required to designate lands of long-term commercial significance and under 060 required to protect those lands. Even if there was a county that did not have an acre of lands designated under 170, if that county has on going commercial Ag of some portion, the goal of GMA #8 is that "shall attempt to protect commercial Ag" and the County will have to deal with that in some fashion. Any lands designated under 170 must be protected and GMA boards have said that not only requires restricting what can be done on those lands but also must assure that their neighbors do not push them into some other use. Rural Agriculture where there are some areas with scattered commercial but it is not believed those lands will stay in Ag past their current user, there is a broader range of choices – the county not obligated to protect the particular parcel but are obligated to protect the concept that people can find places in the County to do that.

Mr. Dearborn stated that what many jurisdictions have done is for lands adjacent to long term commercial significant lands, those property owners would have to require greater setback, a more significant kind of buffer on the rural side of the line rather than on the Ag side of the line. Ms. Spencer said there were also duties as to any plat adjacent to lands of long term commercial significance – require the plat provide a notice to advise property owners in the plat that adjacent lands are in Ag and they can expect normal Ag activities to go forward. GMA boards have taken a very dim view of permitting long term lands to subdivide – the level that the county has determined necessary in order to maintain that industry and basically the county expected to not permit rezones.

Commissioner McDowell stated that in a county made up of islands, obviously the land value is going up a lot faster than other areas. He asked if there were a method of protecting those resource lands available to cluster a development on a farmer's property allowing the farmer to sell off some right, but require as open space continued use of that property as the resource. In that example, Ms. Spencer advised that GMA boards to date had taken a fairly dim view of that.

Ms. Spencer noted that the map shows in light green those areas in the tax classification of 20 acres or greater. In terms of a candidate area for designation as long term commercial significance, the Ebey's Prairie area is an obvious candidate area. As you look down toward the south one can see scattered farms that the Planning Commission and Board of Commissioners have to come to grips with – i.e.: "is there a reason to think these individual parcels are of long term commercial significance?".

In this particular area [and others] where families have historically farmed the land and continue to farm the land, the Chair's opinion was that one of the goals of the Comp Plan needs to be to do everything possible to ensure that Ag uses of those properties can continue and if that means allowing the ability to cluster some development off in some way, he felt that the County absolutely had to do that.

Ms. Spencer stated that if the County identifies such areas based on knowledge for which it is essential there be some development capacity for those properties, that must be articulated very clearly as to why that is essential in order to maintain the Ag.

In terms of Ag and Fm lands in Island County, the Chair asked if any of these lands were long term commercially significant – people farm them, but the truth is that if the land were subdivided and sold it probably would be worth more in terms of development potential than it is to farm, and so it has to be understood in development of the Plan this appears to be an artificial preservation of something the county has historically had and well worth the preservation effort, but in doing so must recognize the pressures whoever owners the property today or 20 years from now will face.

Mr. Rose had an opportunity to talk with Roger Sherman, Central Whidbey farmer, this summer and learned that the cost of doing business in Island County is up. It used to take 1 hour to get to the markets in Mt. Vernon, but now due to congestion takes significantly longer. Also there are no longer any farm maintenance equipment facilities in Island County and the farmer has to go off island to get equipment fixed. There is no local control over federal subsidies which clearly impacts the dairy business. Bottom line it all increases the cost of farming. He thought the hearings boards must have some kind of formula to use when determining economic viability.

Unfortunately, Ms. Spencer noted that the GMA boards had on three occasions, where counties had not designated lands because they did not believe it economically profitable, had said that was not a valid basis. In one case where that was challenged, the matter went back to the legislature [timberland] and the other two cases did not go to court. Looking at designation, she suggested the County may want to look very hard at the issue of parcel size required for the kinds of Ag that is going on. Dairy farms are probably the exception – it may be that what the County concludes is it may take 160 acres minimum to make sense in Kittitas County but 20 acres here, and end up with a fairly low density for Island County but a density that creates some alternative value as well that would be sustainable by the GMA boards. The three questions Island County needs to ask and answer are:

1. What are the lands of long term commercial significance?
2. Do you distinguish between those lands that have sold development rights and have really no serious other choice?
3. What is the appropriate protection for lands which you designate?

In looking at those questions, the County may want to look at some of the things that are necessary to keep from driving people out of farming. Island County Ag is going forward now to be really what is of the "micro-farm nature" tending to be more in the 10 acre or less size because of the nature of what is being grown.

One issue that Ann Pringle brought out was that our young people go off to college and are not coming back to farm the property; owners grow old and what can they do with their property.

The Chairman much preferred for those large farms who have not sold development rights to have the ability to cluster some development on one piece of it and keep the rest of it in tact rather than taking a large farm and dividing it up into 20 acre pieces. Important to note that Island County if not an Ag county simply cannot be compared to a county in Eastern Washington.

Ms. Spencer thought that one of the problems was that growth boards really had not dealt with a situation like Island County. Only in Wisconsin or parts of up state New York do the sons and daughters on occasion come back so that dairy farms in many areas are something where buying lands to become a dairy farmer is a problem. The county needs to think in terms of how to encourage the continued farming of that property recognizing the next farmer may not run dairy cows or may; clearly the risk is the next farmer will not. As to squash and cabbage seed stock, it is somewhat more likely someone will come and do more or less the same thing if it has been protected so it does not get divided up to where that is really not the choice.

Matt Nash indicated that the existing Comp Plan draft Nov 1996 and the old Comp Plan Phase II and Zoning Ordinance, contain designation criteria which captured a lot of lands of long term commercial significance but probably more than necessary to accomplish the goal of GMA. The important thing he thought was to designate only those lands that are of that designation and back up that information with a good record demonstrating why that conclusion was reached and how, and to protect those lands to the degree required by the Act.

Commissioner Shaughnessy mentioned growth pressures on or next to the farms and the right to continue farming and forestry - where is that addressed?

This, according to Ms. Spencer, will be addressed in the development regulations. And Mr. Dearborn referred to page 6 and 7 – see first a discussion of designation criteria and then a discussion of protection measures, i.e. the right to farm.

When the county decides what is Ag of long term commercial significance, Commissioner McDowell asked if the County could then look at the issue – what they can produce on that land versus what it would take for someone new to come in, with some knowledge of Ag, buy the property and have the carrying cost of that property and still make a profit off that property; if the answer is "no", could it ever be called long term commercially significant?

Ms. Spencer referred to the criteria at the top of page 2 for deciding long term commercial significance. If it is found in this county that you have so much already parcelized the land around such that it is deemed not viable for someone to come in and buy a particular farm then you may start articulating that there is not a critical mass here which would allow the purchase of land when the current farmer leaves. Skagit County and Kittitas County did not designate tens of thousands of acres concluding that it was not profitable and a living not made doing it, and GMA boards in both cases said that where they saw those acres actually being used for an industry that they did not believe that the fact someone came in and said they could not make a living was an adequate reason to exclude those lands.

Chairman Shelton stated that if there is a 500 acre dairy farm, as there is in Central Whidbey, he did not want to see that go from a 500 acre dairy farm to one per five; granted in the cases of the Engles and Shermans, if that does not stay in the family then it probably will not continue to be a viable commercial operation; if it does stay in the family and they are able to continue on, he wants them to continue on as a viable farming operation, recognizing there may be some piece of that property that will have to be developed and sold off so they can continue.

Ms. Spencer gathered from today's conversation that the County may ultimately with the long-term commercial significance category want to have a couple of base densities. In the case of a 500 acre farm, the County might want to create 1 per 20 or 1 per 40 development units which could be clustered in some fashion and preserve the rest.

Mr. Moore commented that in Clallam County the growth board took a hard look at the clustering concept and considered not only the extent to which Ag land had been lost in that County over the last 15-20 years, but also when the County proposed the clustering concept the growth board came down hard in allowing that indiscriminately in the AG areas. And, Mr. Dearborn pointed out that the GMA Board in Island County's invalidity order did not invalidate the clustering options in Ag and Fm today – only use of TDRs in the Ag and FM zone to cluster at a higher density, so he believed Island County has a basis to deal with the clustering issue.

Forestry

Matt Nash reviewed the issue paper for Forestry and noted that basically many of the same issues were repeated from the Ag issue paper, but there are some major differences between Ag and Fm lands designations. In Fm land classification criteria the Act places a lot more emphasis on adjacent uses and the need to protect those from adjacent uses. The intent being the more development around forestry uses the more pressures there are to stop those uses. There are no major forestlands in Island County which are not either in sight of development, within hearing distance of intensive development or can be seen driving by going one place or another. His impression is growth boards recognize this and see forestry as something that should take place on the western slopes in terms of any industrial types of operations. The growth boards recognize the pressures that development and suburban and urban uses put on

forestry lands and the bottom line is the same as it is for Ag lands -- they are hard-pressed to find that there are no Ag lands of long term significance, but that may be something that is defensible when talking about forest lands. There are a couple very large ownerships in Island County and if those ownerships protest the County's failure to designate that property, then it probably is not appropriate to not designate them.

Ms. Spencer said that one of the things to remember is that the Legislature did not intend to protect anyone's view with 170 the designation of long term resource lands, rather to protect the industry and the right to practice the industry. In the *Twin Falls vs. Snohomish County* case decision points out that in forest land the issue is can this land economically and practically be managed for long term Commercial production. The Legislation set forth four things [outlined bottom of page 1 of the issue paper lines 21-35]. Those four items do not leap out as yes answers in Island County. This was a 1993 Amendment to GMA sponsored by Mary Margaret Haugen and came through Snohomish County case. The key words are: "primarily devoted to" , "economically and practically managed". There are some factual issues in terms of practical forestry. It is not question who is satisfied but in order to engage in commercial forestry you have to without hassle be able to do those things which are necessary in modern forestry to grow trees, i.e., clearcutting, spraying, burning.

Mr. Dearborn added to note that the intent was if you have a pattern of people objecting to class 2 and 3 forest practices, that certainly is an indicator it is not going to be practical to manage those lands long term for forestry.

Chairman Shelton was interested to know that if someone grows trees on 100 acres and are in the 40 year category as far as harvesting, if because of public outcry about clearcutting those lands are not designated forest lands of long term commercial significance, would the county by doing that be denying that person's right to cut his trees?

Ms. Spencer's answer was that the County still has a duty to protect commercial forestry in order to achieve GMA goal #8, the same as Ag. Just because the County may say it does not think this is long term commercially significant does not mean the County does not still have a duty to at least within the rural area recognize the commercial forestry which people are trying to accomplish, and protect it.

Mike Stevens made the point that GMA does not replace the Forest Practices Act.

Ms. Spencer stated that inside UGAs the County may end up having to handle forest practices. In the rural areas those people have all the rights under the Forest Practices Act they ever had.

Mr. Dearborn provided an illustration as a way to see this: the County has criteria on Rural Ag and

Rural Forestry that effectively allows the property owner to opt out if they take their lands out of the tax classification. It is within their control completely to get their lands zoned to a rural use rather an Ag or Fm use. The boards said in the invalidity order that is not an appropriate criteria, and that probably is the case for long term commercially significant Ag and Fm lands – that it will not be within the owners power unilaterally to take their lands out of that classification. That does not necessarily mean that it is still not a reasonable standard for Rural Ag and Rural Fm to allow the property owner the option of taking their lands out of that classification on the withdrawal from the tax class.

Ms. Pringle mentioned that one of the things which might be of assistance is such as you see on the Peninsula – as you drive by forests there are signs such as "this forest was planted in 1937 and due to be harvested in 1967"; people driving by know it is a commercial forest and will be harvested; it is a crop.

Mike Stevens, who was for many years the land manager for Plumb Creek, noted some of the kinds of things the industry expects when a county designates lands of long term significance. Notification is one of real importance to local areas to allow that information to get transferred to people driving by, but it is more of a public relations thing too, and educational. It is a matter of scale in Island County. Today, major timber companies are not investing in forest lands in blocks anything usually

less than 10,000 acres – looking for those investments they know are going to be able to sustain not just one rotation but three or four, and in places where they have the regulatory economic ability to continue to invest and manage timber lands unencumbered by intense public scrutiny of adjacent neighbors and incompatible uses.

Commissioner Shaughnessy noted one of the issues in Island County are those companies who cruise the County and contact property owners with 5 or 10 acres; the property owner sells the timber, it is clear cut and the trees gone. Is that issue being addressed anywhere in this?

Ms. Spencer confirmed it was not. Looking at the map there are two blocks big enough to look at in the long term. Then there are wood lots, although there are a fair amount of those, they are not in any sense part of the long-term commercial significant base of the industry. The County would not want all of those wood lots to come down and therefore may want to have some strong "right-to-forestry"

provisions in order to do as much as possible to keep people from being rushed into doing that.

Mr. Stevens pointed out that there are some burdens on the forest land that occur too because of the adjoining ownership, from trespass, fires, wood theft, dumping, etc. And, in some cases, FPA requires replanting within a certain time.

Chairman Shelton has long held that one of the things that is a problem with regard to forest practices, and he has spoken to the legislature about, is that on Class 2 why is it allowed three years for replanting. Should replant as quickly as possible.

Mr. Stevens believed the industry average was actually less than 18 months; enforcement is always an issue.

Matt Nash stated that as far as conversion harvest issues – long term commercial significance means it is not going to be converted.

Mr. Dearborn said though for the rural forestry that does remain which may be the vast majority of the forest lands, the conversion harvest option becomes one of the ways to deal with the regulation of those. Note a correction in the Criteria: Page 6, line 33 - "c" should be a bullet and should say forest instead of farm. Minimum parcel size issue will be a starting point as it is with Ag, probably more on the forest side, in terms of industry standards.

Mr. Stevens said that an 80 acre minimum is an accepted standard; truly for industrial forest land almost half a section or better is needed as a minimum in order to be able to sustain an on-going

Forestry program. But it is accepted in most counties for purposes of land use control 80 acres for forest lands of long term commercial significance [more a factor of one that residential uses are incompatible with commercial forestry and would only allow 1 unit per 80 acres for purposes of individual ownerships].

In the Jefferson County case, Ms. Spencer noted that one of the land owners had segregated their land into 20 acre parcels and the county had excluded all of that land [more than 80 acres]; the GMA board held they were required to have aggregated that.

Mr. Dearborn stated that one of the issues in Ag and Fm is whether scrutiny is on the individual ownership or whether it is on the area where there may be multiple owners, some of which are conducting Ag, while others with very similar land are not - do the ones with similar land that are not Ag get caught in the designation for agriculture an the same with forestry?

Ms. Spencer commented that in King County when they first started looking at long term agriculture they concluded that because of the kinds of urban pressures the existing farms were under that if they did not have at least a 1,000 acre block it probably was not going to have long term significance; they designated 6 Ag production districts in 1979; two of which in-between urbanization, one between the cities of Kent and Auburn and one between Redmond and Woodinville – especially in those APDs, when they designated them there have been large areas that were fallow. She represented the owners of two parcels which have been fallow for decades. One inside the city of Redmond one between Kent and Auburn. The Redmond owner appealed Redmond's designation of his property as Ag land to the GMHB and the GMHB upheld when the land is not primarily devoted to commercial production it cannot be designated as Ag land . The City of Redmond appealed that to the Superior Court and the Court agreed, if the land is

fallow, it is not Ag land under GMA; that is now in front of the Supreme Court probably to be heard in March. In the second case, the land had not been devoted primarily to Ag production for years; that has gone through a whole series of hoops, but in that case, Superior Court held that the Ag zoning was arbitrary and capricious and illegal; King County has appealed that and that will also be heard by the Supreme

Court probably in March. However, in the case of Clark County, several property owners appealed the County's decision to include their land to the WWGMGB saying their land had not been in Ag for years, and the WWGMGB said the designation can be by area – if the area is primarily devoted to commercial production. That decision was never appealed to the courts.

Mr. Dearborn noted that the City of Redmond asked the Legislature in 1997 for an amendment to GMA that would make it permissible to do what they did but the Legislature did not pass that out of committee, so from a legislative standpoint, he thought the Legislature was viewing this "devoted to" to mean that the lands have to actually be used for Ag and forestry. Island County will be on a collision with the Clark County case if it excludes lands that are contiguous to or in the internal portion of a large block of Ag or Forestry – classify the larger block as long term significant but exclude parcels that are being used for that. As Island County's counsel, he feels that the two Superior Court cases in King County have the correct view – but that is the Central Washington hearings board view and not the view of the Western Washington hearings board.

Mr. Stevens commented with respect to block sizes for forest land that it is very important, especially in those cases of intermingled ownerships, for making a substantial block size so that owners can work cooperatively with each other for easements, access, fire abatement, weed control, etc. He spoke with DNR representative and DNR plans to be at some hearings to discuss DNR lands; they fully admit their lands are in somewhat of a transition, still being maintained in trust status and continue wanting to be able to manage those lands as forest lands under requirements of that trust status. Some of the lands on Camano are in an exchange program status whereby they can be transferred or exchanged to state parks or the county, if funding is made available, and then replace those lands with other trust lands. Some DNR lands on both Camano and Whidbey are being managed in a cooperative fashion with their real estate division - so their land is being transitioned out of pure timber management and into another status. They recognize also their lands could go into a status that is more of open space or public recreation or other public use.

Keith Dearborn noted that DNR would be treated the same way that the private property owners are. The same considerations apply to DNR as to private property owners.

Mineral Resource Lands

Mr. Nash noted that attached maps show lands that are 35 acres or greater that lie in areas mapped by USGS as potentially having significant sand and gravel deposits in Island County. On South Whidbey none of the existing pits that are mapped appear on any of the lands that were mapped by USGS and on North Whidbey two large sized pits do not show up on the map at all, but that will be corrected. The map is used to get an idea of where those deposits are – the dark black areas are incompatible uses [i.e. plats, areas within UGAs of Oak Harbor and Langley]. It is important to eventually to look at moderately dense land – 2.5 acres or smaller – in relation to these sites \but that has not yet been done. The number of parcels larger than 35 acres within the mineral deposit location are not underlain by wetlands, and not that great a number of them. The map in draft Nov 1996 plan shows existing pits and USGS mapped areas. Some criteria to consider in looking at these include: parcel sizes 35 to 40 acres as a minimum and legal and permitted existing uses.

With respect to existing sites, Ms. Spencer stated that absent some very good reason, the GMA board will expect the County to designate and protect those sites. The problem with potential sites is that the draft plan marked out potential sites including maybe ¼ of the County. If designated, the GMA boards will expect some kind of protection, and there is no straight faced reason to actually believe those are all potential sites. The county will need to figure out how to identify sites that actually may be potential sites. The county may chose to identify some land use categories, and one of the conclusions may be realistically is a 40 acre site so surrounded today by incompatible uses it is not realistic to believe it would happen and no reason therefore to say it is a potential site.

Mr. Dearborn mentioned that on Tuesday, the Land Use Study Commission would be looking at a proposal to:

1. recommend legislation that would have DNR do a GIS system on minerals state wide for mineral resource lands that would be ready by 2000 - 2002 for use
2. do a programmatic EIS on potential resource land designation
3. county association in conjunction with the industry to develop a model ordinance to regulate the minerals and require counties to revisit mineral designations with this new information, before 2002 and then on a 10 year cycle after that.

A good share of what is needed is going to be coming to the County some time in the future, but not

now. So he did not suggest Island County do an extensive amount of work on mineral lands at this point except to protect the existing operations, and maybe if there are some clearly identifiable areas that deserve reservation for future use to do that now.

In response to Donna Keeler's question about how mineral lands had been treated in the past as an overlay, the concern Ms. Spencer had about a broad overlay is that the GMA board would expect the county to protect what it designates and with respect to the large areas that have been mapped as potential as having gravel, the kinds of protections the board has tended to look at include restricting lot sizes significantly, oversized setbacks, and those are things the County could chose to do but given the extensive amount of development in most of those areas it seems like it is probably a fairly significant over regulation. In at least one of the counties the GMA board remanded saying tell us what are your actual potential sites. Another approach would be to say based on our data we do not have any data nor can we get any data about potential site; therefore we will set the following criteria.....

Mr. Dearborn said he would make sure that the existing mineral operators all know about this. At this time, he also disclosed that the State Association is one of his clients. Being islands the transport of sand and gravel and rock for public projects as well as private projects is vastly more expensive if it comes off island which means it is even more important for this county to ensure not covering over the supply possibilities by incompatible uses.

One anomaly Mr. Moore brought out was that the mineral lands definition does not include peat yet there are several peat pits on the island, even though peat extraction is subject to the Mine Land Restoration Act.

PUBLIC COMMENTS

Marianne Edain, WEAN, Langley.

GMA seems to assume that lands were either in Ag, Fm or some urban use, and she is concerned that "rural" is whatever is nothing else. Smaller parcels are, she believes, of commercial significance, not necessarily to the individual owner of a 5 acre parcel, but in the aggregate to Island County and its economy. Protections would include such things as the open space public benefit rating system to reward people for keeping their land in open space [i.e. timber rather than turning it into a grass field or letting it go back to blackberry vines]. For Ag & Fm, and Critical & Rural lands, Class 2 and 3 forest permits at present she thinks grant zero protection for wetlands and other critical areas. There is a need for protection of critical lands in the Ag and Fm lands of long term commercial significance as well as in rural zones.

Don Jewett, South Whidbey.

In general, although it may be good to look at what has happened in the past, note that out of 39 counties, no two are alike. Need to take a fresh look at Island County as Island County and realize it is not like others. The fact that a son or daughter got a college education does not necessarily mean they do not want to come back and continue to Ag or forestry.

Bill Thorn, Camano Island

There should be an analysis of how much sand & gravel and minerals will be needed in the county over the planning period, quantifiable, and allow an area of land that could be designated as appropriate for such materials. He would like to see the County take the policy position of promoting sustainability throughout the county for farming or forestry. It is an important practice and a growing movement throughout the country and important to pursue globally. For Ag and Fm to continue long range there has to be some inherent value in the Ag and Fm product, not just in the de facto values attributable to property because of development. County farmers and foresters could get together and try to establish some basis for that, i.e. alternative crops such as yuppie fruits, for which there are higher product values. He questioned the need for any minimum size parcel because a person can make an earning off an acre if dedicated and their lifestyle accommodates [other possibilities: seeds, miniature apple orchards]. There should be some consideration of county-wide involvement itself in a promotional activity that would support that "grown in Island County" promotional approach.

Peter Remington, Clinton.

Expressed some concern about people moving here from other places and then object to things that go on when someone next door is raising his/her own food, and their ability even if only raising corn, beets, carrots and chickens, the ability for a person to go from that and have a commercial crop, and somehow have some protection for that. Small crop farms seem to be on the rise and in his case, already has had some who just moved here objecting to everyday things that happen on every day farms. He would like to see county support for what he and others like him are doing just as if it were a 20 acre farming practice. Someone living a self-sufficient lifestyle actually is in a way raising commercial crops; if not, would have to go to the store and buy that produce. With regard to Fm lands, he recalled that in the Sixties, he tried to get a change made to the FPA but was unsuccessful and suggested perhaps this might be done locally – the issue is that people are required only to replant Douglas Fir. He remembered that when he first came to the Island that the original make up of timber included not only Douglas Fir but Hemlock, Cedar and Spruce, and his suggestion is to consider some planting of a couple groves of Cedar and Spruce on some of the larger parcels – encourage people to do that. And he mentioned too perhaps some consideration be given to the new Poplar species grown on wetlands.

Tom Roehl, Project Planning Services, Freeland. [representing himself, clients & Frie Family]

Recalled having mentioned to the Board and Planning Commission previously about existing RCWS which provide needed protection already, specifically RCW 7.48.160 and .300. These are laws already in effect on a State-wide basis and laws he views as "right to farm and forest practices". There is no need to spend a lot of county resources because those Ag and Fm practices are already outright expressed statutorily authorized permitted uses. As far as the small 5 acre or 2.5 acre herb farms, whether of long term commercial significance or not, all that has to be done to make it clear if the County wants to promote agriculture – it is promoted as an outright permitted use in every zone in the county except maybe the residential zone and high density development areas. He was concerned about measures to protect those in the industry ending up being the very measures that kill them. They are like any other industry – the land is their prime asset. These people have to deal with banks and the land is their asset. As far as the issue raised about clustering around farms and conflicting uses, when talking about PRD clustering what is occurring may be preserving a chunk of land but introduces a different kind of lifestyle into an area. The most compatible use adjacent to farm lands is the 2.5 acre tract where people live rural lifestyles and are the most tolerant of Ag activities next door. There are no lands of what are by industry standards long term commercially significant in Island County if talking about forestry on a second or third cycle, and he did not see too much incentive for anyone to come here and be in the forest practice business. A lot of class 1 and 2 soils are in wetlands, Miller Lake a good example. There are at least

four different classifications of Ag in the tax program and three or four forest classifications, and he thought the only lands that should be candidate lands would be those in the highest Ag or Fm designation forest classification.

Rich Melaas, NAS Whidbey.

Regarding mineral lands issues, recommendation is that the County quantify a designated area based on the 20 year planning time. The County may want to consider that NAS Whidbey probably is one of the largest users of aggregate in the County with the largest concrete structures and the fact that aggregate extraction is located near the air station may not be a coincidence. Suggested when looking at designation the County may want to look at a longer time horizon than 20 years.

There being no further business to come before the Board at this time,

the meeting was adjourned at 12:05 p.m.

BOARD OF COUNTY COMMISSIONERS

ISLAND COUNTY, WASHINGTON

Mike Shelton, Chairman

Wm. L. McDowell, Member

Tom Shaughnessy, Member

Attest:

Margaret Rosenkranz, Clerk of the Board