

**BOARD OF ISLAND COUNTY COMMISSIONERS MINUTES OF MEETING
AUGUST 4, 2008 – SPECIAL SESSION**

The Board of Island County Commissioners met in Special Session on August 4, 2008 beginning at 6:00 p.m. at the Camano Senior and Community Center, 606 Arrowhead Road, Camano Island, Washington. The purpose of the Special Session was to hold a required public hearing following the Board's June 16, 2008 adoption of Ordinance C-71-08 (PLG-010-08) In the Matter of Adopting an Interim Official Control that Regulates Commercial Development within Non-Residential Rural Areas of Intensive Development Adjacent to State Route 532 and consider adoption of any changes to the interim control after public comment. Commissioners John Dean, Chairman, Phillip Bakke, Member, and Wm. L. McDowell, Member attended.

Attendance: Approximately 70 members of the public, press, and County staff

[Attendance sheets on file with the Clerk of the Board – GMA No. 9889]

[Special Session Notice on file with the Clerk of the Board – GMA No. 9890]

Hand-out: Ordinance C-71-08 (PLG-010-08) In the Matter of Adopting an Interim Official Control that Regulates Commercial Development within Non-Residential Rural Areas of Intensive Development Adjacent to State Route 532.

Chairman Dean welcomed the assembly. He introduced Ordinance C-71-08 (PLG-010-08) In the Matter of Adopting an Interim Official Control that Regulates Commercial Development within Non-Residential Rural Areas of Intensive Development (RAID) Adjacent to State Route 532 and commented that the Board appreciates the interest and participation by those in attendance.

The Chairman said the ordinance is focused on a set of interim rules adopted by the Board of County Commissioners on June 16, 2008 and set for public hearing. When interim rules are adopted they are in effect for a period of six months meaning that Ordinance C-71-08 will expire December 16, 2008. During that six month period, the interim rules will temporarily impose regulations on commercial property in RAIDs located along SR 532. The Board took the interim action to allow the community, commercial landowners, and Planning Department to work together on an evaluation of the land use regulations currently applied to the commercially-zoned areas located on SR 532 from its entry onto Camano Island to Terry's Corner. Any proposed changes to the existing rules will go through a public hearing process before the County's Planning Commission so that a recommendation may be forwarded to the Board. The evaluation of the existing land use rules will begin in September with a recommendation anticipated to reach the Board in early December.

Following a brief overview of the ordinance by staff, public comment, and discussion by the Board, three options concerning the ordinance remain: (1) to affirm the Board's June 16 action without any change; (2) continue the proceeding to another day in the event of unanswered questions or concerns; or, (3) modify the ordinance based upon public and staff input.

Jeff Tate, Director of Planning and Community Development, spoke of the origin of the ordinance, what it says, and the program that Planning has assembled to move the process forward.

Ordinance C-71-08 is an interim ordinance that if retained will remain in effect until December 16, 2008. There are three affected areas located on SR 532:

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- Modifies the Camano Gateway RAID;
- Modifies the Terry's Corner RAID; and
- Modifies the Camano Marine RAID.

Rural Areas of Intensive Development (RAIDs) are long-standing existing commercial areas. Camano Gateway is located at the intersection of SR 532 and Good Road, on all four sides of the intersection; more specifically, a Rural Village zoning designation. Terry's Corner is where SR 532 ends and North Camano Drive and East Camano Drive begin. The Camano Marine area is two pieces of property located between Good Road and Terry's Corner and is referred to as a Rural Service zoning designation, an area where there are isolated commercial uses. Mr. Tate referred the assembly to Exhibit A of the interim control which references the three RAIDs.

Mr. Tate said the interim control is being considered to support a community-driven effort to re-evaluate commercial zoning and land use regulation located along SR 532. The process internally outlined would have staff holding a series of community meetings wherein affected commercial landowners and generally-interested citizens, along with state and local agencies, would be asked to have a conversation about the future and vision of SR 532 as the primary gateway corridor to Camano Island. During this time the interim control will be in effect while the process moves forward. Following the Planning Commission review and hearing process, of which the public will be notified, staff will advance to the Board a permanent set of development regulations that would have its own public venue. Prior to that time and more importantly Mr. Tate remarked, will be the public process and sit-down discussions with people who have expressed an interest and who have much at stake in the issue.

Mr. Tate went on to say that the concept came about as a result of Planning and Community Development receiving numerous concerns and feedback expressed over the types of development permits that Planning has issued and whether those permits are appropriate for what is being constructed. Rural Village zoning designations exist throughout all of Island County, each having its own character, and staff attempts to honor some of that character when moving through the development review process. When staff administered and reviewed some of the proposals there was concern, not relating to whether commercial development is allowed but rather details of the proposal.

The interim control over the next five months will allow staff to move forward with community projects without experiencing a rush to the counter which often happens upon an announcement of a planning project. The interim regulations contain some very restrictive requirements but at the same time allow for some limited ability while the process moves forward. Mr. Tate reviewed the limitations imposed by the interim ordinance as set forth in Exhibit A, all of which have a clear affect upon minimizing and reducing the amount of development that could occur during the interim period.

Mr. Tate then elaborated about the working group, the people who will be attending meetings and discussing the issues, and the planned open process for the meetings. The group consists of a balance of people:

- Those who are affected by the ordinance because they own commercial property;
- Interested citizens and groups who commented in the past on projects and in general;
- Professional architects who have agreed to join the conversations.

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The working group consists of a number of people who were invited to participate but ultimately, the hope is to receive feedback from a broader cross-section of the community before proceeding to a Planning Commission proposal. The process is as follows:

- The Department hopefully will arrive at recommendations to forward on to the Planning Commission;
- The Planning Commission, comprising of nine members, will hold the majority of public hearings and will possibly modify staff's proposal;
- The Planning Commission will ultimately vote on and make a recommendation of what to pass along to the Board of Commissioners.

Rather than having staff prepare a proposal and referring it to the Planning Commission Mr. Tate said that involving the public from the start is an attempt to provide necessary public participation and interaction. The process will primarily work through September and October with a draft proposal from the Planning Commission in November. The final Planning Commission recommendation to the Board is expected the first part of December.

Chairman Dean, upon requesting that comments be limited to five minutes, opened the floor to the assembly.

Bruce Hawthorne, 909 SR 532, Camano. He and his wife own Camano Marine and they do not understand why the ordinance applies to their property, they believe they are being singled out. He does not plan any development of his property and if that were the case, then he believes the entire corridor should be included. His parcel consists of one piece of property, 4-1/2 acres. Camano Marine is a long-established business, has been in the area for many years, and he wants his property excluded from the action.

Chairman Dean said the Board's intent is to review commercial property for the future, reminding the assembly that the purpose of the ordinance is to address long-term planning. He believes that Camano is on the edge of many developments or possibilities of such development along the corridor and now is a good time for dialogue amongst the community as to the hope for commercial properties; i.e., connections, style, rural island village appearance or instead, a variety of appearances. The intent is not to single anyone out but rather to take time out to develop a plan everyone can be proud of.

Carolyn Ehret, 903 High Road, Camano. Ms. Ehret thanked the Board for having the insight to say time out. She believes this to be a good opportunity for the community to come together as one to talk about what is wanted.

Bill Thorn, 1020 Sandy Beach Drive, Camano. Mr. Thorn strongly endorses the action of the Board believing it to be overdue as the gateway area is badly in need of some consistency and it is important to preserve the rural character. He also complimented the Board on the public process, to continue on, and he looks forward to the Planning Commission hearings. He offered his services if needed.

Clay Thompson, 2188 Lowell Point Road, Camano, also endorses the action of the Board. It is important for the community to come together on the issue and he would be interested in participating on the committee as well.

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Robert Cole, 5210 268th NW, Stanwood, is one of the principals of TR Camano and TR Camano has major problems with the ordinance and moratorium. There are definite legal issues, is precedent setting, unfair, and directed at TR Camano. The County is aware of the plans of TR Camano, the plans were within the boundaries of the existing rules for Rural Village, and the interim ordinance is created such that not one of the proposed buildings is acceptable. Mr. Cole believes the intent of the ordinance was so that TR Camano could not file its site plan for the 8-1/2 acres on the north side. The company spent the past five years with its time and money improving the property and doing what was necessary to meet existing standards, relying completely on the Rural Village zoning designation. Site plan review was completed on the north and south sides with no request from TR Camano for discretionary decisions on the part of Planning but instead, TR Camano worked within the permitted uses. There are now eight-foot high speed bumps on what was just a short time ago, an allowed project. Mr. Cole said there are mortgages on the property and now nothing can be done with the land for at least six months, maybe longer. Interest being paid on the mortgage will never be returned and it is unclear if the mortgage can continue due to the moratorium. The company's financial well-being is at issue. Mr. Cole reiterated that the ordinance is not legal, is not moral, is unfair, the moratorium should be repealed, and there is no emergency.

Dave Platter, 659 Maple Grove Road, Camano. Mr. Platter said the most important thing to look at is the legal consequences for the County. He said there is numerous case law on takings and there cannot be an ordinance that says 80 percent of a person's property will be taken for open space; studies and a procedural process must first be accomplished. A lawsuit has been filed against Island County for case law violation with a request for damages if the issue is not handled responsibly. Mr. Platter said the ordinance is procedurally and legally flawed and it should be dismissed in order to mitigate damages to the County.

Robin Taylor, 535 N. Waugh Road, Mount Vernon attended on behalf of his sister, Patricia Churchill, who owns property at Terry's Corner purchased 23 years ago. The property was purchased because, about 13 acres with 5-6 acres that abuts the road, was at that time and has remained commercially zoned. The property has been on the market now for about a year. He believes the ordinance destroys any value in his sister's property and she will not be able to sell it at least during the next 6-10 months or at all. He referred to the County's ordinance as inverse condemnation when property is taken in this fashion; it is spot zoning and wrong.

Mitzi Cameron, 1242 N. Gerdes Road, Camano. Ms. Cameron said this is the first year she is hearing people say "I want off Camano." Commercial people will not come to Camano. She believes that Mr. Cole is a benefit to the community and is someone who is willing to donate acreage for soccer kids on Camano at no charge. She currently travels to Sumas for soccer and appreciates Mr. Cole's offer of property and support. The community should think about the future of Camano because at this point people want to leave. In her 20 years on Camano she has never heard such talk. She believes it will be a sad day if the community loses Mr. Cole.

Allison Warner, 316 Dove Drive, Camano, attended the public hearing representing CARE. She acknowledged the difficult process and hearing and reiterated the fact that the ordinance is an interim control and only temporary. CARE is very supportive of putting a hold on major new developments that are based on the current existing zoning of the Rural Village zone because of the number of problems with that zoning designation. What the zoning set out and had envisioned for Camano is not resulting in the zoning, character, or vision established. CARE's major component at issue is the fact of housing density. Ms. Warner said that certain people in

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the assembly are forgetting that this is a Rural zone and therefore must meet criteria of the Growth Management Act for Rural zones. CARE applauds the County for recognizing the issues where the Rural Village zone is in violation of the GMA; the County's temporary action is warranted. CARE looks forward to the County launching a process to try to envision what the commercial area is or should be as there are problems with the commercial development currently in place. What is workable for Camano in terms of commercial development must be looked at, what works for the community, and gateway planning is encouraged.

Ms. Warner believes everyone should take a step back, allow time for the process to occur, it is a wise decision, and CARE applauds it. That belief does not mean that CARE does not want commercial development or people losing the right to use their property; CARE is looking forward to the community process where everyone can work together for the benefit of Camano. She clarified that the ordinance does not apply to existing, currently approved TR Camano developments and any change in zoning is not retroactive.

Chris Richards, 1180 Rutland Place, Camano. He applauds the Board for taking the action it has. The three parties involved are government, private sector, and the community. He encouraged the Board, in its leadership role, to bring the three parties together in a positive way.

Shirley Swanson, 899 Smith Road, Camano. She believes the ordinance was put in place to stop TR Camano. In her opinion it seems that every time TR Camano has something on paper with a good idea the idea is slapped down. Ms. Swanson is not one for big development but does believe the community should look to the future and realize that Camano is no longer a sleepy little town. A six-month moratorium is a long time and not fair to TR Camano; TR Camano is being singled out.

Paul Sundberg of Stanwood agrees that both sides of the issue are entitled to their opinion but he does not want to see good friends and community members end up hating each other and go bankrupt in the process. He encourages discussion about the problems and would prefer the Board make a decision based on that discussion rather than turn the matter over to a Judge to decide.

Lawrence Baum resides at 1285 Talagwa Lane, Camano and is recent past president of the Camano Island Chamber of Commerce. He applauds the efforts of the Planning Department and has volunteered to be a part of the committee that will address the issues. After reading the ordinance and listening to comments, however, he is now wondering if the issues at hand are limited to just the three RAIDs, the word that comes to mind is "rezoning." In his opinion it is clear that people will apply to rezone along the corridor and he suspects the issue will be revisited in the future as the SR 532 corridor develops.

Mr. Tate said that rezoning in itself is a very complicated and if not, in many cases under state law, an impossible situation. State law says that counties cannot establish commercial areas outside of what are referred to as urban growth areas and under the Growth Management Act commercial areas are limited to existing historically developed areas. He said the County drew boundaries pursuant to state law around existing historically developed areas and not every business in the County is on commercially-zoned property. For a landowner to apply for that type of rezone to a commercial zoning designation, unless there was a mistake made by the County early on and there is an existing commercial use there today, based on the way state law is written the County could never recommend approval of a rezone. One of two things must

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happen in order to have more commercial zoning; either the state law needs to change or an area would have to be designated as an urban growth area. To be designated as an urban growth area the area must have a sewer system, storm water system, and infrastructure to support that method of development. It is expensive to make something like that happen and the community would need to evaluate such a proposal and be supportive of that urban growth area label. Currently there are no urban growth areas on Camano Island and that has been a struggle for the County, a very challenging model, since the Growth Management Act was enacted. The idea behind the concept in the Growth Management Act is to draw boundaries around existing development and not allow development to expand.

Val Schroeder, 1369 N. Arrowhead, Camano appreciates the interim control concerning SR 532 and what is developed there. She feels it is important to determine what the community wants on that stretch of highway and welcomes the six-month opportunity to have a dialogue on what is wanted on the gateway to Camano.

Ron Wells, 175 Triangle Cove Lane, Camano said the people of Island County have spoken when they said “this is what we want” with the adoption of the regulations in place since the 1998 plan. Now the rug is being pulled out from beneath the community with the interim control and it should not happen.

There being no further public comment the Chairman closed the public comment portion of the hearing.

Chairman Dean said that state law allows the Board to enact an ordinance and then hold a later public hearing and he can see now why the law was written in that way; it is a good reality check for the Board to hear from the public. He thanked those who spoke for their comments.

The Chairman said from his perspective he is not comfortable at this time making a decision. He believes the community has raised enough good questions to require, for him, additional answers before making a determination.

Commissioner McDowell remarked about the wide variety of testimony received, both sides very passionate about their beliefs, and he will move to continue the hearing for two weeks in order to digest and think about all that was said. He does not want to make a snap decision and appreciated the comments of the assembly.

Commissioner Bakke concurred with his colleagues and thanked everyone for attending. He also would like to have an opportunity to think about what has been said and allow legal time to review the extensive correspondence received about the interim control. He supports continuing the public hearing.

By unanimous motion the Board approved continuing the public hearing on Ordinance C-71-08 (PLG-010-08) In the Matter of Adopting an Interim Official Control that Regulates Commercial Development within Non-Residential Rural Areas of Intensive Development Adjacent to State Route 532 (*GMA No. 9891*) for two weeks to Monday, August 18, 2008 at 6:00 p.m. tentatively at the same location, Camano Senior and Community Center, 606 Arrowhead Road, Camano. An announcement will be made if another location is necessary.

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The public hearing concluded at 7:20 p.m.

BOARD OF COUNTY COMMISSIONERS
ISLAND COUNTY, WASHINGTON

John Dean, Chairman

Phillip Bakke, Member

Wm. L. McDowell, Member

ATTEST:

Elaine Marlow, Clerk of the Board