

**BOARD OF ISLAND COUNTY COMMISSIONERS MINUTES OF MEETING
JUNE 9, 2008 – SPECIAL SESSION**

The Board of Island County Commissioners met in Special Session on June 9, 2008 beginning at 6:00 p.m. at Grigwire Hall, Trinity Lutheran Church, 18341 SR 525, Freeland, Washington. The purpose of the Special Session was to conduct a required public hearing following the Board's May 19, 2008 adoption of Ordinance C-57-08 (PLG-007-08) in the Matter of Adopting an Interim Official Control that Regulates the Use of Property within the Freeland Municipal Urban Growth Area. Commissioners John Dean, Chairman, Phillip Bakke, Member, and Wm. L. McDowell, Member attended.

Attendance: Approximately 22 members of the public, press, and County staff.

[Attendance sheets on file with the Clerk of the Board – GMA No. # 9850]

Chairman Dean called to order the Special Session and began by thanking everyone for attending. He explained that Ordinance C-57-08 was adopted May 19, 2008 and the public hearing is being held following that emergency action of the Board. The emergency action put interim development regulations into place within the Freeland Non-Municipal Urban Growth Area for a period of twelve months, the maximum amount of time afforded under state law for interim regulations. The interim regulations went into effect immediately and were adopted under provisions in state law that allow counties to enact rules without first holding a public hearing when the Board perceives there to be an emergency. The Board determined that allowing development under current zoning rules would be inconsistent with the recently-adopted Freeland Sub-Area Plan and that constituted an emergency and required immediate response. When the Board takes an emergency action such as this, state law requires that a public hearing be held within 60 days of the action.

The Chairman summarized the evening's format saying the proceeding would begin with a brief introduction of the ordinance by staff and the Board would then open the floor to public comment. He requested that public comment address solely the ordinance. Following Board deliberation it will then choose to reaffirm the interim regulations, continue the public hearing to another date and time, or consider modifications to the ordinance.

Jeff Tate, Director, Planning and Community Development reiterated that Ordinance C-57-08 In the Matter of Adopting an Interim Official Control that Regulates the Use of Property within the Freeland Non-Municipal Urban Growth Area was adopted May 19, 2008 and is the subject of the public hearing.

Mr. Tate said on May 5, 2008 Commissioner Bakke sent staff an e-mail, as well as routing the e-mail to members of the community who had expressed concern over interim development, requesting that staff assemble an ordinance that evaluates allowed uses under current zoning regulations and land use categories outlined in the Freeland Sub-Area Plan. Staff was also asked to look at the geographic boundary, the Non-Municipal Urban Growth Area, and for each property determine the overlaps; in other words, current zoning on a given single piece of property of either Rural, Rural Residential, or Rural Center and what the Freeland Sub-Area Plan called for in its overlap designation. Staff's task was to look at the two sets of standards, policies, definitions, and any language that applied both within current zoning and within the Freeland Sub-Area Plan itself and determine any inconsistencies. The concern is current zoning allowed under today's rules and whether that is consistent with the policies, definitions, and goals for each land use designation within the Freeland Sub-Area Plan. The result of staff's review is reflected in a matrix in the ordinance that defines the different uses allowed under current zoning and whether those uses are consistent with future land use plan maps established in the sub-area plan.

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Mr. Tate then talked about the way the ordinance reads:

- Exhibit A looks at the Rural zoning designation;
- Exhibit B at the Rural Residential zoning designation;
- Exhibit C at the Rural Center zoning designation.
- The matrix for each zoning designation lists all allowed uses under each zoning category currently then across the top it shows each of the future land use designations. The letters “Y” indicate “Yes” and “N” indicate “No” and those letters have been inserted throughout the tables; “Y” indicating that the uses that could be allowed under current zoning are consistent with the future land use categories and “N” indicating where they are not consistent. Where an “N” is placed, that would indicate an interim official control and staff would not be able to, during the interim period of 12 months, permit those land use activities on those properties. While operating under an interim official control staff will be working on the development regulations so that at the end of that time period, there will be a permanent set of development regulations that synchronize on a permanent basis uses allowed under current zoning to ensure that anything staff permits in the future is consistent with the Freeland Sub-Area Plan.

Concerning current zoning Mr. Tate said there are two different types of documents: (1) development regulations in the form of the County code; and (2) the Freeland Sub-Area Plan which is a policy document. The challenge for staff when looking at the different types of uses is that County code is very specific versus the sub-area plan which is not; the sub-area plan provides more in the way of policies and goals. Staff did the best it could to attempt to relay what would likely be allowed and not be allowed in the future. Staff presented to the Board the proposed emergency ordinance, the Board took action putting it into immediate effect, but state law requires a public hearing be held within 60 days of that emergency action. Mr. Tate was hopeful the public hearing will lend additional insight, either support or concern about the specific areas where a “Y” or “N” are inserted, and he welcomed dialogue to consider whether the appropriate recommendations have been made.

Mr. Tate concluded by saying that once the interim control was adopted Commissioner Bakke distributed it via e-mail to roughly 20-30 people and copies were provided to anyone who called requesting same.

Chairman Dean opened the floor to public comment.

Terry Otey, P.O. Box 657, Freeland asked how the sub-area plan at this time fits into the comprehensive plan in the sense that the sub-area plan relies so much sewers.

Mr. Tate responded saying the Freeland Sub-Area Plan was adopted into the County’s Comprehensive Plan as a chapter or element of the plan itself. It was important for the Board to take an action on whether to designate Freeland as a Non-Municipal Urban Growth Area and allow forward movement with the planning process to address the sewer, development regulations, and other components that go along with the designation. The Findings of Fact were written to emphasize and contemplate the fact that the sub-area plan allows for a much greater level of intensity of development; greater density, greater commercial intensity. When the Findings were written it was contemplated that the biggest concern was the anticipation that people would want to apply for permits that allowed for what the sub-area plan would authorize. Mr. Tate said it is not uncommon to take an action where there is a phasing out of a series of

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actions; that is, adopt a sub-area plan or adopt a comprehensive plan first then work towards the development regulations.

Mr. Otey then questioned Findings of Fact No. 4 saying it could be many years before a vote on the sewer takes place. He said the “moratorium” precludes anyone from doing anything with their property other than paying property taxes.

Mr. Tate responded saying the interim control is not a moratorium but rather re-evaluates what uses can or cannot be permitted within those zoning designations, adjusting such accordingly during the interim period.

Joann Peterson, 1239 Rainbow Lane, Greenbank believes it wise to “take a breath and get our ducks in order.”

Art Peterson, 1239 Rainbow Lane, Greenbank is in favor of the interim control and cautions use of land around the Freeland Library.

Charlie Stromberg, 5783 Menlo Beach Lane, Freeland was told the interim development regulations would be accomplished by September 1 but tonight the word is now 12 months. He urges the Board to complete the plan and have it implemented sooner than later.

Dean Enell, 4755 Lakeside Drive, Langley complimented the Board on adopting the interim regulations saying he supports it.

Don LaMontagne, 4882 Spinnaker Drive, Freeland is in favor of the ordinance as proposed and he does not believe it a problem to wait another 12 months if it means getting it right.

Susan Bennett, 2191 Goss Ridge Road, Freeland is in agreement with everyone who has spoken with the exception of Mr. Otey.

Bill Frederick, P.O. Box 1426, Freeland supports the ordinance saying the Board is following the wise direction of the City of Langley.

Steve Shapiro, 5522 S. Freeland Avenue, Freeland said the ordinance was not on anyone’s radar, that the permitted and excluded uses based on the Freeland Sub-Area Plan are inconsistent with those of the County-wide comprehensive plan. He is in favor of an ordinance that would correct those. When Freeland was a RAID there was a building size limit of 27,000 square feet; now that Freeland is a NMUGA he believes that limit does not apply. He does not want larger buildings in Freeland; he wants the Board to re-impose building size limits during the interim period until the final development regulations are drafted.

Mr. Tate addressed the building size issue saying the change in designation to a NMUGA does take Freeland from a RAID designation but the designation does not make the size limitation go away; the size limitation remains in effect for anything zoned commercial within Freeland.

Mr. Shapiro then asked the Board to impose a setback between buildings of at least five feet.

Mr. Tate responded that through the process size restrictions and how those are calculated will be looked at.

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Meg Wingard, 4960 Harbor Hills Drive, Freeland encouraged creative solutions between the community, Mr. Otey, and the Board.

Mary Solt, 19424 SR 525, Freeland does strongly support the ordinance.

Mr. Shapiro concluded public testimony by saying he requests the Board impose a commercial building setback within the Freeland NMUGA by not allowing any building larger than 27,000 square feet until final development regulations are in place.

The Chairman closed the public comment portion of the hearing.

Commissioner McDowell believes the interim control was mischaracterized as a moratorium because as long as one stays within the uses and density allowed development of the property is still allowed. He agrees the uses should remain in line with what the future uses will be.

Commissioner Bakke said the reason the Board is at this point is because the comprehensive plan was adopted, there was forward movement by the Board, and Freeland is now permitted to proceed with its incorporation effort and vote one way or the other. Ultimately it allows the County to move forward with designing and implementing the regulations to see that the vision contained in the NMUGA plan is able to be achieved. The interim regulations prevent non-conforming uses from being established in Freeland and the Commissioner does not believe it will lead to dramatic changes in what is and is not allowed; it is more a tinkering with those uses to make sure they align. Commissioner Bakke's commitment to seeing the process through and his conversations with Mr. Tate are completely solid but he admits, as with any well-intentioned plan, there are bumps in the road.

Commissioner Bakke continued to say that when the ordinance designating Freeland as a Non-Municipal Urban Growth Area was adopted it appeared that most members of the community were on-board with the NMUGA plan but the appeal of that ordinance currently before the Growth Board goes further than just Freeland Hill. If the appeal dealt only with Freeland Hill Commissioner Bakke's direction to Mr. Tate would be to move forward and work on the implementing regulations. In his opinion it does not seem prudent to spend permit fee money and taxpayer funds to develop implementing regulations for a plan that is being challenged before the Growth Board. Instead, he believes it better to let the challenge go through the process and re-evaluate thereafter; however, that does not mean that the groundwork is not being laid for the development regulations. Staff and the Board are attempting to obtain guidance from people who have been through the process before, still moving forward with having local design professionals and people from Freeland involved in that effort, and Commissioner Bakke hopes that while there is a delay that by giving Mr. Tate the needed resources to include Mr. Wagoner's firm that the delay will be shortened. The ordinance is valid for one year and in the event the process takes longer to have in place development regulations he would like to see the issue returned to the Board and be considered for re-adoption again. The Commissioner does not want to see a lapse happen and thereby create an uncertainty within the community.

Chairman Dean said from his standpoint he supports the ordinance for its obvious merits and believes it to be the appropriate step at this time. He thanked those who worked on the issue for so long.

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Commissioner McDowell asked Mr. Tate, assuming the NMUGA moves forward, if that eventually means under the GMA that there will be a more densely populated and densely used area in Freeland. From the evenings and other comments he believes that is not what the community necessarily desires.

Mr. Tate said there is no question that density is increased. He said he misspoke earlier that intensity of commercial use does not necessarily equate to larger buildings, though it could. Staff looks at residential and the number of people versus the types of commercial uses. There is no doubt that on balance, the community of Freeland becomes something that has a greater intensification or density of use within its boundaries and part of that is a result of the Growth Board's order saying Freeland is more than a RAID, it is an urban growth area and should be considered under that label and under a more appropriate, more specific planning process.

By unanimous motion the Board reaffirmed Ordinance C-57-08 (PLG-007-08) In the Matter of Adopting an Interim Official Control that Regulates the Use of Property within the Freeland Municipal Urban Growth Area adopted May 19, 2008 without any further amendments (*GMA No. 9851*)

The Special Session concluded at 7:00 p.m.

BOARD OF COUNTY COMMISSIONERS
ISLAND COUNTY, WASHINGTON

Excused when signed _____
John Dean, Chairman

Phillip Bakke, Member

Wm. L. McDowell, Member

ATTEST:

Elaine Marlow, Clerk of the Board