



*Facilities Plans submitted by other school districts will necessitate additional public notice and hearings.*

John Coleman, Planner, noted that CPA 191/06 proposes changes to the ICC that would enable school districts to collect impact fees on newly created parcels in the County. The school impact fees would only be applicable on residential construction on lots created after such time that the amendments are adopted. Additionally, a school district would have to show a need for impact fees to help pay for Capital Facilities improvements that would be necessary due to new development.

The proposal began with the Stanwood-Camano School District. The District is interested in collecting school impact fees on Camano Island to help meet future Capital Facilities needs. The District already collects school impact fees from the portion of its jurisdiction in Snohomish County. The District submitted a Capital Facilities Plan(CFP) that indicates the Districts projected student generation rates and the Capital Facilities needs to meet those projections. The plan also has a financing strategy to show how they plan to meet the future growth. The CFP is only for Camano Island, but an ordinance to enable school impact fees will affect all of Island County.

In order for the Stanwood-Camano School District to fulfill this plan two general actions would need to occur. Changes will need to be made to the Island County Code to allow for school impact fees, and the District's CFP must be adopted as part of the Island County Comprehensive Plan. These are two related but separate actions. In order for the CFP to be adopted school impact fees have to be enabled through the County code.

The GMA requires the County to review the CFP and make the necessary changes to the Island County Code to allow for impact fees. Changes include a new chapter to the code, 11.06 and minor changes to Chapter 16.19, and either 16.06 or 14.01A.

The Stanwood-Camano School District has updated their CFP and will be available shortly. The updated CFP shows that the projected student rates have changed and the numbers are declining. At this point the District will not be able to collect impact fees.

### ***PUBLIC COMMENT***

Dean Enell, 5936 Maxwellton Road, Langley, read from a letter submitted to the Planning Commission. (Growth Management Record #8826)

I'm writing to request that you do the right and sensible thing and approve Camano/Stanwood's plea for impact fees so they can run their school system. The year is 2006. Most school districts in the Puget Sound area when faced with enrollment growth caused by residential development in their areas, adopted impact fees way back in the early 90's. That's 15 years ago. They've collected thousands of dollars to build and expand schools with at least part of the costs of those new facilities passed on to the growth that demanded they be built. The last time I checked these school districts they

would say that impact fees are an integral and essential part of their financial revenue base.

Excuse me if I sound impatient, but I've been a proponent for impact fees in Island County for over 12 years now. I've made such pleas at numerous Island County Commissioner meetings. They were included as part of a proposal to amend the Comprehensive Plan back in 1999/2000. The adoption of impact fees has been submitted as a revision to the Comprehensive Plan at least once. Naturally these efforts have been to no avail as it seems that we have some interest groups around here that see impact fees as the work of the devil.

One would expect that at a minimum the County government could come up with some data that tells us how much it costs current residents when a new house comes to town. Such studies done elsewhere in the Puget Sound area peg this cost at anywhere from \$10,000-30,000 to provide services including schools, parks, roads and related infrastructure. This is why every single area in the Puget Sound that like us is experiencing growth has adopted a system of impact fees so that at least part of the increased costs that come from new development are fairly passed along to that new development. Every single area with the exception of Island County and the city of Lynnwood.

I live on South Whidbey where we expanded the school facilities around 50% to accommodate the increased enrollment in our school district some 8 years ago. Thanks to the backward nature of our County government, this expense was shouldered solely by the citizens of South Whidbey. Why is it that the Island County Planning Department had no recommended impact fees when we completed the Island County Comprehensive Plan per GMA requirements back in 1998? No doubt the same reason that the Island County Planning Department never hinted that Island County might consider doing a Comprehensive Plan before citizen's lawsuits and the threat of legal actions forced some action, years after the due date of a Comprehensive Plan. In sort I don't think we are very proactive.

I'm not going to suggest, despite the obvious, that Island County government and its Planning Department had their heads in the sand. Let's just say that they have shown a reluctance to move along with a changing society. They seem to prefer the comfort of practices that worked well some decades back. But I think you owe it to the citizens of Island County to collect the data and see if your staunch positions are really creditable. I strongly suspect that like other areas that have bothered to look at the data, you will find when a new house comes to town the net financial effect on County government is a negative – meaning the increase to the tax rolls from real estate tax and sales tax from this new residence is less than the costs of services that this new residence demands from the County. A situation that supports the collection of impact fees.

Jurisdictions in Washington that collect impact fees: Anacortes, Arlington, Auburn, Bainbridge Island, Battle Ground, Bellevue, Bellingham, Blaine, Bonney Lake, Bothell,

Bridgeport, Brier, Buckley, Burlington, Camas, Carnation, Chehalis, Coupeville, Covington, Darrington, Duvall, Eatonville, Edgewood, Ellensburg, Enumclaw, Everett, Federal Way, Ferndale, Fife, Gold Bar, Granite Falls, Issaquah, Kenmore, Kennewick, Kent, Kirkland, La Center, Lacey, Lynden, Maple Valley, Marysville, Medical Lake, Mill Creek, Milton, Monroe, Mount Vernon, Mukilteo, Newcastle, North Bend, Oak Harbor, Olympia, Pasco, Poulsbo, Puyallup, Redmond, Renton, Ridgefield, Sammamish, SeaTac, Sedro-Woolley, Spokane, Stanwood, Steilacoom, Sultan, Tumwater, Vancouver, Washougal, Woodinville, Woodland, Yelm, Zillah

Val Hillers asked if he was speaking about general impact fees or school impact fees.

Dean Enell noted that impact fees can be used for schools, roads and parks.

Deb Eidsness pointed out that what is before the Planning Commission is impact fees for schools, not impact fees in general.

Dean Enell said he was speaking about impact fees in general, but his research indicates that the main reason impact fees are initiated is because of schools so he would venture to say that a very high percentage of these jurisdictions and perhaps all of them have school impact fees. He was not proposing that South Whidbey adopt school impact fees at this point, but he felt they should be available to them should there be an increase in the student population.

Gary Platt, Executive Director of Business Operations for the Stanwood-Camano School District, noted that at the last meeting in June he spent quite a lot of time going over the plan and discussing the details of what is involved and the purpose but the point that he wanted to reiterate and make sure that everybody was aware of is that the school district sees this as an issue of equity. The school district crosses the boundaries of two counties. On the Snohomish County side of the school district new growth is helping to off set the costs of providing permanent classroom facilities for students and on the other side in Camano Island a fee is not being assessed.

When the school district first started this process there was a lot of debate about student generation rates and how many students come to the school district from each new home so a separate study was done. The student generation rate for the Island County side of the school district was just completed. The rates did go down a little bit, they are still similar to what they were, about half of what is on the Snohomish County side which is why the rates are a lot less in Island County then they are in Snohomish County,

The CFP that is being adopted by the school board today is based on the recently updated student enrollment projections and at this point the district is not projecting growth in the next 2 years so there will not be an impact fee assessed at this time. It would have been possible in Snohomish County to generate a fee had the District gone with a different method of calculating based on a ratio method of the number of residents moving into the county compared to the number of students that we have. The school board feels strongly

that the same methodology should be used consistently from plan to plan, year to year as the updates are done and not switch from one methodology to another just to generate a fee.

The other point aside from the equity issue is to make sure that people understand that this is not a tax, it is a fee and the purpose of it is to have the new homes coming into the district contribute to the cost of providing new permanent facilities. It does not apply to existing homes, subdivisions or lots that have already been approved.

Again at this point and for the next two years it appears that the district would not be assessing an impact fee but they want to be careful to make sure that people understand that every 2 years the CFP is updated and it is possible that there could be a fee in the future if the growth resumes at the rates that they have seen in the past.

Bill Massey noted that at the previous hearing on this subject Mr. Platt indicated that no revenue was generated from unimproved lots, but isn't it a fact that the vacant land prior to development is contributing to school district taxes and then once it is developed, even though there is no house on it, the individual lot owners are contributing to school district taxes.

Gary Platt said existing lots do contribute and in fact the calculation does provide for the tax payments on new subdivisions as well so there is an adjustment to the impact fee amount that is meant to take into consideration the fact that existing properties and new ones that are approved after the plan is developed would be contributing tax dollars to help pay for the cost of those facilities.

Ray Gabelein said as new homes are built aren't they in fact lessening the tax burden to the existing homes.

Gary Platt acknowledged that all new homes that come on line are going to contribute and help reduce the tax burden, but the piece that is missing is the initial cost that goes into that to help pay for the new facilities. There is a deficiency between what they would contribute in their future taxes and the initial cost that would be incurred because of the new facility.

Helen Hendrickson, Consultant for the school district, explained that if the cost was \$10,000/square foot per student to construct a facility the developer is not charged that particular amount as an impact fee rather there are certain credits against that dollar amount before an impact fee is assessed. One of those credits is state matching funds, another is the bond issue and the third would be any reduction from the county. The net is passed on to the developer.

Ray Gabelein said the end result is the homeowner pays. It seems like just another nail in the coffin to allow for an affordable housing market.

Gary Platt pointed out that it is being assessed against people that don't live here yet, people that are moving into the community. The reason this whole thing came up is because the burden for paying for the impact of new development has been placed on people that already live here and have already paid for schools, fire stations, roads, etc. so what we are talking about is assessing people that don't live here and reducing the burden on the tax payers that are here today.

Dean Enell noted that most districts exempt impact fees from affordable housing. The whole point here is who should pay for the new school, the new homes that make it necessary for a new school or the people that already live there and built the old school.

Public Comment was closed.

Phil Bakke noted that at the time the Planning Department received the school districts application both the district and county staff believed that the district was in a position to be able to impose and collect impact fees based on newly created parcels on Camano Island. As it turns out the districts updated CFP shows a decline in student enrollment not allowing the district to collect impact fees.

One of the issues that has come up is the notion of whether its new people who are being imposed impact fees or whether in fact it is the land that is being imposed impact fees. Related to that is how a piece of property is currently being assessed and how are taxes for the school districts specifically being collected for a vacant piece of property. He felt it would be helpful to invite Tom Baenen, the County Assessor, to come and talk to the Planning Commission about the County's taxing structure. In Island County property is assessed at its highest and best use.

The other issue that came up in public input is the breakdown of value. Land on Camano Island and improvements to the land on Camano Island are assessed quite highly. Property on Camano Island is very expensive as compared to Snohomish County and Stanwood. He suggested inviting Elaine Marlow, the County's Budget Director, to come and talk to them about that issue.

There are more jurisdictions in Washington State that do not collect impact fees than do. Island County does collect money for transportation improvements associated with projects and has done so for years. Island County has not collected impact fees on school districts because it has never been requested. It is not a matter of action or inaction on the County's part it is a matter of whether or not those taxing districts request the County to undertake this analysis.

The Planning Commission has several options, they can forward this amendment to the BICC, or they can table it in light of the district not being able to collect impact fees at this time.

He suggested the Commission re-open public comment to allow for the school district to submit their updated CFP and input from the Assessor and Budget Director. One of the concerns that staff has with regards to impact fees is the administrative burden of collecting and disbursing that money. State law requires establishing separate accounts as well as an annual reporting process. County-wide since 1999 approximately 200 to 250 new parcels have been created. When you look at the administrative process, you need to look at how much of the money collected is going to end up building classrooms and how much is going to be eaten up by state auditors and accounting.

Bill Massey asked if the CFP was specifically identified as a separate issue from the ordinance change.

Phil Bakke said they are being considered together under the same docket item. It has however been noticed in such a way that under this docket item there are two issues and the Planning Commission is certainly welcomed to handle those two issues separately.

Bill Massey moved to recommend to the Board of Island County Commissioners that they accept the Stanwood/Camano School District's CFP, excluding the impact fee portion which will be handled separately. (The motion died for lack of a second.)

Phil Bakke noted that the school district was adopting an updated CFP today that shows they are not in a position to collect impact fees for the next two years.

*Scott Yonkman moved to accept the Stanwood/Camano School District's updated CFP and close public comment. The motion was seconded by Bill Massey and carried unanimously.*

Phil Bakke recommended that the Planning Commission invite the Assessor and Budget Director to their annual review amendment deliberation meeting to address questions that have been raised.

Ray Gabelein commented that he did not see an element for affordable housing included in the information they have received so far. He pointed out that each existing homeowner in the district would pay less each time a new home is built. It was his opinion that an impact fee is really just a tax increase for everyone when it is assessed on a new home.

He also noted that it was not the builder that would be paying the impact fee it would be passed down to the consumer. He expressed concern with retirement age homeowners being hit again with yet another tax. Simply because many other jurisdictions impose impact fees doesn't mean it is the right thing to do in Island County.

Val Hillers said her way of looking at school funding is that everybody pays whether you have kids in school or not and impact fees seem to somehow violate that. However she is

conflicted by the inequity of having Snohomish County homeowners pay impact fees and not Camano Island homeowners.

Bill Massey supported impact fees for traffic impacts created from commercial developments. He did not support school impacts fees because of the impact they have on the taxpayer and affordable housing as well as the administrative burden they would put on the County. He was familiar with a number of the jurisdictions listed by Mr. Enell, particularly Oak Harbor, and they do have impact fees, but not for schools.

Scott Yonkman asked the school district staff to comment on observations made by members of the Planning Commission.

Helen Hendrickson pointed out that the general tax collections that everyone pays for schools go into the general fund and are not used for school construction. The bond issues are used for school construction and the dollar amount of those bond issues would be off set by the mitigation fees that may have been collected if in fact the district was entitled.

The person who develops the student generation rate takes both the Snohomish County side and the Camano Island side and looks at all the building permits over a period of time and compares that with data within the school district banks to determine how many students throughout the district are generated by each new home. The student generation rate drives the impact fee so if there were no students coming out of those new homes there would be no impact fee.

Gary Platt clarified that the CFP that is being adopted by the school board today is just for Snohomish County and is showing no impact fee. They just received the updated student generation rates for Camano Island and as soon as they can update the report with these new rates they will present that report to the school board and make it available to the County as well.

One of the other questions was the issue of affordable housing and part of the answer to that is that one of the reasons that impact fees came up was that as new growth occurs in a community without fees you end up having the entire community contributing to the cost of providing new facilities as a result of the growth. If you are not assessing a fee then that cost gets handed off to all of the taxpayers in the district.

The issue that we hear about all the time is the quickly increasing assessed valuation rates that we have making the taxes on existing homes higher and higher so that they are no longer affordable to the existing homeowner. So part of the idea is to shift some of that cost to keep the homes that we have sheltered somewhat from the tax impacts of having to provide these facilities and shift that cost to the new homes that are coming in so that what we have remains as affordable as possible.

Ray Gabelein reiterated the fact that when an impact fee is charged to a new home by law the tax assessor has to put an equal value on similar homes in that area.

Gary Platt said he understood the point Mr. Gabelein was making but the other side of the equation is as the assessed valuation goes up the rate goes down. If part of the cost of new construction or a bond issue is reduced because of an impact fee then the tax rate to everybody is also lower.

Ray Gabelein said as the valuation goes up it is for every home in the taxing districts not just school districts and the net result would be a tax increase to everyone. He also noted that some of these taxing districts do not have a cap on them.

Bill Massey noted that the Planning Commission received a comment from the public suggesting that since each home in the district pays the same levy/ bond tax rate, Camano Island residents are paying a disproportionate share. It may be that 45% of the students from Camano Island are paying as much in taxes as the 55% of the students from Stanwood.

Gary Platt said the assessed valuations on Camano Island are higher than the assessed valuation in Stanwood, but the current tax system requires that everybody within the school district be taxed at the same rate whether it is for the M & O levy or for bonds or whatever it happens to be.

Basically that is the same concept with the impact fees, to provide consistency across the school district as to how taxes are assessed. If the assessors in both counties are doing their job and assessing everybody on a fair and equal basis using the same methodologies then you know that would be equitable, but there is this other piece that is out there with the impact fees that are only assessed on new homes on the Stanwood side and not on the Camano Island side.

Bill Massey asked if any calculations have been done with regard to the cost of collecting the impact fees.

Gary Platt said the school district has not looked into that but the way it works in Snohomish County the money is collected, it goes to the County Treasurers office and is credited to the school districts account. The County generates a quarterly report that identifies the sources of the money. He did not know what it costs administratively. The City of Stanwood retains a portion of the fee for the cost of administering the program and currently that is running about 15 to 20%.

Helen Hendrickson noted that Snohomish County charges either \$50.00 or \$60.00 per building permit.

Scott Yonkman asked if any consideration has been given to eliminating the impact fees on the Stanwood side.

Gary Platt said that has not been discussed. It may have been discussed when the program was developed initially 10 plus years ago. The whole theory behind impact fees is that new development help pay for the cost and reduces the impact on the tax payers that are here now.

***ZAA 475/05 – Amendment to rezone a 9.8 acre parcel from Rural Service to Rural Village***

*Handouts:*

*Petition to rezone the parcel of property known as the Tyee Grocery (Growth Management Record #8832)*

*Excerpts from the Potential Rural Service Lands Study, Island County Comprehensive Plan, Technical Appendix 4 (Growth Management Record # 8833)*

*Email dated 12/2/05 from Jeff Tate regarding Mixed Uses (Growth Management Record # 8834)*

Phil Bakke pointed out that Planning staff has not evaluated this rezone as to whether or not they feel this property should be rezoned or not. Instead an analysis of the County's Comprehensive Plan and implementing regulations has been done.

Andrew Hicks, Planner, noted that ZAA 475/05 is for a zoning classification change, from Rural Service to Rural Village, of a 9.8 acre parcel located on the south end of Camano Island. The zoning amendment would allow the intensification of commercial development for as long as the parcel is in existence.

A Power Point presentation shows several aeriels of the subject parcel and the development occurring on it. The Rural Service zone allows for controlled expansion of existing commercial uses, such as day care centers, mixed use buildings, retail sales and services, and water tanks. The Rural Village zone allows for much more intensified development. It would allow the applicants to exceed a 4,000 square foot limitation on commercial operations and such uses as cultural centers, restaurants, government services, single family residences, retail sales and services, health care services, bank and financial services, as well as mixed use buildings.

The staff report indicates that a Temporary Use Permit #257/06 was applied for to allow for a two day music festival and the applicants asked that he inform the Planning Commission that it was the previous owners who applied for that permit.

In 1984 the zoning on this parcel was Non-Residential. Currently, the Tyee Grocery, Pilchuck Glass School and at least one single family residence exists on the parcel. There is also an unregulated man-altered wetland on the property.

In the petition provided by the applicants, they express concern about the 4,000 square foot limitation in the Rural Service zone. Staff has provided an email from Jeff Tate explaining that the residential component of the mixed use is not included in the 4,000 square foot calculations.

He provided the following definition, designation criteria, goals and policies of the Rural Service Zone and the Rural Village zone in the Comprehensive Plan:

### **Rural Service**

**Definition:** The Rural Service lands designation is intended for existing small, isolated, businesses and mixed-uses located outside larger commercial areas, oriented to serving local needs, that typically are not permitted in that generalized area. Rural Service areas can either be a single business or service, or a small cluster.

### **Designation Criteria:**

- A. Recognize the existing development pattern as the foundation for the designation of Rural Service Areas.
- B. The designation is appropriate for those non-residential or mixed-use activities such as small, country stores and other similar retail uses.
- C. All Rural Service lands must have an existing development on a lot or combination of lots less than 2.5 acres.
- D. Defined as a mixed-use area of more intensive rural development as established by the formation of a logical outer boundary.
- E. Based on the analysis presented within the study entitled Potential Rural Service Lands Study, Island County Planning.

*The Potential Rural Service Lands Study provided the following information:*

### ***III. Issue Discussion***

***A. Concern of Citizens.*** Property owners have a desire for the Rural Service zone to be implemented so that it recognizes them with the potential for limited expansion without simply being an existing use in the rural area.

***B. Inventory of Potential Uses.*** In total, the potential Rural Service lands inventory starts with 38 uses, encompassing 150 acres, provided that some uses have an actual area of use far less than the parcel size. For example, the Sound View Shopper has an area of

*development of less than an acre on a 38 acre parcel. Only a few of the uses encompass more than a single parcel.*

#### **IV. Options**

*The options that were presented as part of this Rural Service Land Study are:*

- 1. Have the potential Rural Service use remain in the Residential or Rural Residential future land use designation as is shown in the Planning Commission Recommended Plan.*
- 2. Place the potential Rural Service Use in the Rural Service future land use designation.*
- 3. Treat each potential Rural Service use as the starting point for the establishment of a logical outer boundary which may be larger than the existing property boundary of the use and which may include other lands appropriate for similar development.*

#### **V. Staff Recommendation**

- A. Staff recommends that Options 1 and 2 be utilized to differentiate the appropriateness for Rural Service inclusion of potential uses.*
- B. Option 3 for having the isolated non-residential uses serve as a basis for establishment of a logical outer boundary of surrounding parcels does not seem to be appropriate at this time.*
- C. The following is the staff recommendation for the Rural Service zoning district:*
  - 1. The goal of the Rural Service zone should be to provide for commercial activities associated with the provision of daily convenience goods and services for the County's rural area population.*
  - 2. The Rural Service zone should include only existing grocery/convenience stores and establishments for the sale of goods (excluding groceries). These uses are all located outside of the larger planned non-residential areas and are primarily oriented to serving local needs. There are 11 uses which fit into these two categories encompassing 56.8 acres (Note that the Sound View Shopper is on a 38.2 acre parcel and Tye Grocery is on a 9.8 acre parcel).*

**Goal:** Provide for the identification of existing commercial activities associated with the provision of daily convenience goods and services for rural area populations.

**Policies:**

- A. Rural Service lands are designated mixed-use areas of more intensive rural development with a non-expandable logical outer boundary.
- D. Provide for the conditional expansion of existing businesses in a manner which protects environmental quality, rural character, special scenic features and important community amenities and values.
- E. Change in use would not be allowed at a greater intensity than the existing use.
- F. Utilize local knowledge, experience and preferences of the rural community residents and business owners to establish the character of Rural Service Areas.
- G. On a case by case basis, landscaping and other improvements shall be required for the change of use or expansion of existing use so that rural character is not adversely impacted.
- H. Lands may not be rezoned to the Rural Service land use designation.

**Rural Village**

**Definition:** Rural Village Lands are smaller existing non-residential and mixed-use areas located within mixed-use areas of more intensive rural development and are primarily intended for the retail sale of convenience goods as well as personal and business services needed to support the localized geographic area.

**Designation Criteria:**

- A. The designation shall primarily be located on the periphery of residential neighborhoods.
- B. Areas must be served by an approved public or private water system.
- C. In combination with other portions of an area of more intensive rural development, is larger than 5 acres in size.
- D. These areas are generally located along highways, major arterials and collector roads.
- E. Characterized by existing development that is predominantly non-residential and mixed-use.

- F. Located within a mixed-use area of more intensive development as established by forming a logical outer boundary.

**Goal:** Provide for the retail sale of convenience goods as well as personal and business services needed to support persons residing in the rural area.

**Policies:**

- D. The preferred type of development shall include clustering of uses, whose compact design fosters a communal atmosphere or orientation.

Andrew Hicks noted that it is staff's recommendation that the application be denied on the basis that the Comprehensive Plan explicitly states that the Potential Rural Service Lands Study was used as a guide for designating those parcels that did not meet the Rural Village designation criteria.

***PUBLIC COMMENT***

Don McLain, 1599 Silver Fir, Camano Island, asked what a logical outer boundary was.

Phil Bakke explained that logical outer boundaries were established in 1997 by the Land Use Study Commission to allow for recognition and consideration of existing developed areas of more intensive development outside of Urban Growth Areas. The GMA required the County to adopt measures to minimize and contain existing areas or uses of more intensive development. The lands included could not extend beyond the logical outer boundary of the existing area or use. The logical outer boundary is delineated mostly by the built environment.

Andrew Hicks pointed out that there is no logical outer boundary to this parcel because the development is isolated in less than 1.5 acres of the almost 10 acre parcel.

Phil Bakke said it was simply an effort not to split zone parcels. In hindsight it may have been clearer to zone the portion of the parcel that was being used historically for commercial as commercial and then zone the rest of it as rural.

Don McLain noted that the applicants feel that the initial evaluation of the property was inaccurate and that the property is much more suited to Rural Village (RV) zoning than Rural Service (RS). When this property was first evaluated there was at least one single family dwelling on it and possibly a single wide mobile as well. The Rural Service (RS) zone does not allow for single family residences.

The property owner Helen Simmons would like to be able to utilize the property and perhaps in the future build a single family dwelling, a small restaurant and host community events. There is a 10 acre RV zoned development 7.5 miles up the road from

the Tyee Grocery at the corner of East Camano and Elger Bay Road and he did not understand the difference between them being allowed to fully develop the 10 acres versus what someone might do with the Tyee Grocery parcel if it is allowed to be rezoned to RV.

Helen Simmons, 1599 Silver Fir, Camano Island said she did not understand why the parcel was zoned RS when there was a house already on it and the RS zone does not permit single family residences.

Phil Bakke explained that the single family residence is considered a legally established existing use. It is a legally established residence that pre-existed the current code. Had the zoning on the parcel been established back in the 80's it would have been split-zoned with the larger part of the property zoned Rural Residential and the smaller portion zoned RS. This application went through a number of iterations and in the end staff could not find a legal means or rationale under the Island County Comprehensive Plan or the GMA to rezone the parcel from RS to RV.

Don McLain said it seems that the crux of the issue is the logical outer boundary because the property meets the rest of the criteria for the Rural Village zone. He asked how the logical outer boundary was determined for the ten acre undeveloped parcel that is zoned RV.

Phil Bakke said perhaps that designation was done in error.

Don McLain said errors do happen and there should be a means to amend those errors. The County is interpreting the GMA to be absolute.

Phil Bakke encouraged Mr. McLain to read RCW 36.70A which allows for the establishment of local areas of more intensive development. It discusses the logical outer boundary, how that can be established and what types of uses can and cannot be permitted. In staff's analysis of the application they looked at the designation criteria for both the RS and RV zones and it appeared pretty clear to them that the property was correctly put into the RS zone based on the situation that existed in 1992. The designation criteria in the Comprehensive Plan and GMA does not take into account the increased demand for local services.

Andrew Hicks said he felt it was important to note that there is a long list of permitted uses in the RV zone that are not allowed in the RS zone and there is no site plan review for any of the Type 1 decisions in the RV zone.

Phil Bakke pointed out that the RS zone allows for retail sales and services on a small scale which is what this parcel had on it in 1992. The RS zone allows for up to 4,000 square feet while the RV zone allows for up to 10,000 square feet which could be something in the line of a small IGA store. The uses in the RV zone are more intensive

and are not consistent with the type and character of development that was on the parcel in 1992.

Don McLain disagreed noting that the property had the same type and character of development as Elger Bay, Huntington Grocery and certainly as much as the undeveloped piece of land.

Public Comment Closed

Bill Massey indicated that he was a little confused about the residential component of the RS zone.

Jeff Tate said the confusion comes from the distinction between the residential components of a mixed use versus a single family dwelling unit. It comes down to the interpretation of mixed use. In the County code it says that “typically” a mixed use structure may have non-residential uses at street level with residential uses on the second floor. Staff has not had a project come before them where they have been forced to make a decision on whether it would be allowable to have a stand alone store and then 50 feet away have 6 clustered residential units all in one building or all in separate buildings or do the 6 units have to be above the store.

Bill Massey said it would be his understanding that the applicant could add an espresso stand and a canopy with two gas pumps on the subject site as long as the commercial part of the development totaled less than 4,000 square feet.

Val Hillers asked if the subject property could have some additional homes on it.

Phil Bakke indicated that it could.

Don McLain said not single family dwellings.

Jeff Tate acknowledged that there are a lot of pieces of property in the County in which not every single use or structure complies with the zoning designation. The County would have to come up with hundreds of different zoning designations if they had to cater to exactly what is on the existing property. That is why there is a provision in the code for pre-existing uses.

That still leaves the question of single family dwelling versus mixed use. Each zone has a list of uses and some allow both mixed use and single family dwellings while other zones only allow for one or the other. Staff has come to the conclusion that if the use is not listed then by default it is not allowed. However, there still remains the question of how to define what a mixed use is.

Don McLain reiterated the fact that he felt the RS zoning was in error and the property should have been zoned RV from the beginning.

Val Hiller pointed out that in the Potential Rural Service Lands Study staff's recommendation for Elger Bay was Rural Service and it ended up as RV.

Jeff Tate explained that when the recommendation was made staff was only looking at the store and the landowner came forward and provided the Planning Commission with information that showed that the larger pieces of the property had always been used, not in a traditional commercial sense, but as a storage yard for contractors. The Planning Commission because of the commercial use decided to change the zoning to RV.

Val Hillers asked for a list of the properties in the study that staff recommended as RS that became RV.

Don McLain noted that there was a garage/car repair operation on the subject property when it was zoned originally.

Phil Bakke noted that between now and the Planning Commission's deliberation hearing Mr. McLain should provide proof of any commercial activities that were on the property prior to 1997.

Wayne Havens recalled a well drilling business being located on the subject property.

Deb Eidsness noted that in 1981a majority of the property was being used to store equipment and tiles.

Deliberations on the Comprehensive Plan Amendments were set for August 22, 2006. The public meeting on the Phase 1 Wetland Report was scheduled for August 8, 2006 at 6:00 in the evening at Parker Hall.

The hearing adjourned at 12:00 p.m.

Respectfully submitted,

Pam Dill  
Administrative Assistant