MINUTES
KITSAP COUNTY PLANNING COMMISSION
Administration Building - Commissioner’s Chambers
November 25, 2008, 9:00 am

These minutes are intended to provide a summary of the meeting flow and content and should not be relied upon for specific statements from individuals at the meeting.

The Kitsap County Planning Commission met on the above-stated date at the Kitsap County Administration Building – Commissioner’s Chambers located at 619 Division Street, Port Orchard, WA 98366.

Members present: Fred Depee, Linda Paralez, Lou Foritano, Jim Sommerhauser, Lou Foritano, Mike Gustavson, John Taylor and Robert Baglio

Staff present: Katrina Knutson, Heather Adams, Steve Heacock, Pete Sullivan, Tammera Beverage, Jim Avery, and Planning Commission Secretary Mary Seals

Members absent: John Hough

9:05:20

A. Call Meeting to Order, Introductions

B. Adoption of Agenda

Agenda is adopted as posted.

C. Public Comment

Robert Thompson: I’m here for Open Space on my property; I have three ponds that lead into Carpenter Lake and watch the animals come through. The main thing is, they go from one school to another, and they cross my property for cross country races and people, on the weekends, come by and walk their dogs. He passes pictures to the Planning Commission of the property.

Commissioner calls for further Public Comment. Hearing none, he proceeds to agenda item D.

D. Approval of Minutes from November 12, 2008

A motion is made by Commissioner Paralez and seconded by Commissioner Sommerhauser to approve the minutes of November 12, 2008.

The Vote:
Yes: 6
Abstain: 1
The motion carries

E. Findings of Fact – Amendments to the Kitsap County Code Title 22: Steve Heacock, Shoreline Administrator, DCD

Heacock recommends the approval of the Amendments to the Kitsap County Code Title 22 – Limited Change to Shoreline.
A motion is made by Commissioner Sommerhauser and seconded by Commissioner Paralez to approve the Amendments the Kitsap County Code Title 22 – Limited Change to Shoreline.

The Vote:
Yes: 7
Unanimous

F. Findings of Fact – Amendments to Kitsap County Code Title 21: Heather Adams, Associate Planner, DCD

Adams recommends the approval of the Amendments to the Kitsap County Code Title 21.

Sommerhauser: Could you show me how we resolve the wording on the two additions on the mediation?

Adams: Staff is still developing the mediation function of it and you will see it before it goes out.

A motion is made by Commissioner Paralez and seconded by Commissioner Gustavson to approve the Amendments to Kitsap County Code Title 21.

The Vote:
Yes: 7
Unanimous
The motion carries

G. Findings of Fact – Amendments to Kitsap County Code Title 17: Heather Adams, Associate Planner, DCD

Adams recommends the approval of the Amendments to the Kitsap County Code Title 17.

A motion is made by Commissioner Sommerhauser and seconded by Commissioner Paralez to approve the Amendments to Kitsap County Code Title 17.

The Vote:
Yes: 7
The motion carries

H. Findings of Fact – Amendments to the Silverdale Design Standards: Katrina Knutson, Associate Planner, DCD

Knutson recommends the approval of the Amendments to the Silverdale Design Standards.
A motion is made by Commissioner Sommerhauser and seconded by Commissioner Paralez to approve the Amendments to the Silverdale Design Standards.

Taylor: I feel the Silverdale Design Standards are too complex, too difficult to understand, too difficult to interpret, and I think it's overbearing regulations.

Gustavson: I support John’s comment.

Foritano requests examples of where they think it is too complex or too overbearing.

Taylor: The different zoning classifications, I think there is a total of 9?

Knutson: The zoning is different from the districts, but there are 9 districts.

Taylor: Right, that’s not necessary.

Gustavson: The market should be the driver of this and not overregulation. I think we are going to fall into real difficulties in costs and infrastructure support for it.

Sommerhauser: The examples that staff showed us that the market was attempting to do without binding regulation. The current situation in the country of the market and how it drives things is a counter-point to the comments of my two friends.

Depee: I’d also like to bring to your attention that this was before us once before and we sent it to the Commissioners with a reduced amount of districts, the Commissioner’s completely reversed that and decided that they wanted to go with the full 9 districts.

The Vote:
Yes: 5
No: 2
The motion carries

9:18:00

Due to Pete Sullivan not being available for items I and J as the moment, Depee moves them to the end of the agenda and continues on with item K.

I. Current Use Open Space: Tammera Beverage, Commercial Appraiser, Assessors

Tammera Beverage presents the application for Current Use Open Space Classification – Traditional Farm Land for Lynn Terry.

Sommerhauser requests her to point out the one acre that is excluded.
Beverage points out the section where Ms. Terry's house is.

Sommerhauser: There appears to be several buildings about 1/3 of the way back?

Beverage: Those are her sheds and barns for her cattle and hay storage, which are part of the Farm classification.

Discussion is held about the wetlands on the property and the conditions of the classification.

A motion is made by Commissioner Paralez and seconded by Commissioner Foritano to approve the Open Space application for Lynn Terry.

The Vote:
Unanimous
The motion carries

9:30:50

Beverage presents the application for Current Use Open Space Classification for Robert Thompson.

Sommerhauser: Item 8 of the conditions?

Beverage: The camping will be in the two acre’s home site that he pays full taxes on. There is no camping in the four acres of the Open Space.

Sommerhauser: As relates to clearing of vegetation for trails that the…

Beverage: Trails are an acceptable use of Open Space. If you like, we can amend that to read; “Other than maintenance of the trails.”

Gustavson: Jim is right, in that farther down the road, you can wind up with a Hearing Examiner that reads the rules exactly as written, without deviation. This can lead to great difficulty to property owners.

Beverage: We will re-write this before it goes to the Board of County Commissioners.

A motion is made by Commissioner Foritano and seconded by Commissioner Taylor to approve the Application for Current Use Open Space Classification with the appropriate modifications for Robert Thompson.

The Vote:
Unanimous
The motion carries

Beverage presents the application for Current Use Open Space Classification for Beverley Francis Leake Goode
Depee: If this designation is not given to this property, there really isn't much she can do with it anyway with a 45 degree slope. The reduction in the amount of usable ground has already been reflected in the taxes. So what benefit is it to the rest of the community to have this in Open Space?

Beverage: She can still log that. And there is quite a stand of marketable timber on the property. She's giving up the value of that timber to protect it for the wildlife.

Beverley Francis Leake Goode: I own three properties in Kitsap County and this property is a rental property. This renter loved it. The slope is such that there's erosion and it's bad, I've planted trees twice and I have another order in of trees with the conservation district. I'm into environmentalism, the property I live on I'm putting back into nature and I want to do that with this property. The slope is the real reason to protect the erosion.

A motion is made by Commissioner Paralez and second by Commissioner Sommerhauser to approve the Application for Current Use Open Space Classification for Beverley Francis Leake Goode.

The Vote
Unanimous
The motion carries

9:41:25

Beverage presents the application to transfer from Current Use to Farm & Agricultural to Current Use Open Space for Michael and Sally Helland.

A motion is made by Commissioner Paralez and second by Commissioner Foritano to approve the application to transfer from Current Use to Farm & Agricultural to Current Use Open Space for Michael and Sally Helland.

The Vote
Unanimous
The motion carries

Robert Baglio arrives.

9:43:34

Beverage presents the application for Reclassification from Current Use to Farm & Agricultural to Current Use Open Space – Traditional Farm Land for Warren E. Lumsden.

Gustavson: The taxes would increase?

Beverage: Yes, the taxable value on farmland is between 1 and 500 per acre. The taxable value on open space is 50% off of full market value. It’s quite an increase.

Depee: The properties on the west side, those two are now designated as farm? And he’s going to what?
Beverage: Open Space Traditional Farm. It’s still a farm, he’s just not making income anymore.

Depee: If those are ever sold, what occurs?

Beverage: They go seven years and when they go from one category to another, we calculate it on the different categories. If it resold, they would have to pull one acre out. They could definitely be little farms. The good news is, with the zoning this property has and where it’s located, it has a high probability of returning to farming.

Depee: The bottom portion I agree, the top two I don’t. Those are actually two lots out of a four lot plat. Homes built on the north side were already built in as new homes. As long as I know from you that there’s a recapture upon the resale of those for single family residence

Beverage: If the wish to pull it out of traditional farm category. We have not minimum acreage requirement for the traditional farm category as long as it’s over an acre. Because the house on one acre has to be at full market value.

A motion is made by Commissioner Paralez and second by Commissioner Sommerhauser to approve the application for Reclassification from Current Use to Farm & Agricultural to Current Use Open Space – Traditional Farm Land for Warren E. Lumsden.

The Vote
Yes: 7
Abstain: 1
The motion carries

9:49:38

Depee: Asks Jim Avery about Black Jack Creek. If you know there is an ongoing business does it change the application itself?

Jim Avery, Kitsap County Assessor: I’m not sure what you are talking about.

Depee: This property, to my knowledge, is wetland restoration of about 54 acres. It really is being used as a mitigation process for buying credits to other sites. I have a question in my mind as to whether we are subsidizing a business on this application. For example, the Sedgwick and Sidney area that wanted to do mitigation on wetlands were moving over to this to get the mitigation rights and paying per acre to do the restoration. So, effectively it’s a business.

Avery: I don’t know that we’re aware that that was going on. We’d be glad to pull it out and look at it.

Depee: I don’t know if that affects it, that’s why I’m asking.
Avery: I don’t know that there’s anything in the statue that prevents you from approving it.

Gustavson: This is one of the things that falls out of our Critical Areas Ordinance mitigation requirements. Someone buys a piece of property that has some with wetland on it that they logically would develop it. They then have to provide purchase of developable wetland somewhere else.

Depee: I’m in favor of this, it’s a win win. It’s a very smart move by the company. My only question is, are we subsidizing a business?

Foritano: Can you provide additional information about this? The only thing that bothers me is disclosure. If this was really going on, it would have been nice to see it in the application.

Depee: I don’t think there is anything in here that requires it to be disclosed. It’s a new type scenario and it’s rare.

Baglio: On most of these he does say: “No excavation of materials.” If you are going to create a wetland there’s probably going to be some excavation and earthwork moving operation that’s going to go ahead and occur associated with the creation of wetlands from what was once a farm.

Depee: I think that was already addressed in the reconfiguration of the creak and the waterways. Now they’re just doing plant life.

Gustavson: We ought to properly expand in this case to put an exemption in there to except to promote the wetland.

Depee: If you feel that way why don’t you put that up as an amendment when we get there.

Sommerhauser: John and I would like to pull this one from the agenda and get some answered on it and pick it up at the next meeting.

Depee: What questions is it that you want?

Sommerhauser: You’ve raised questions as relates to and I’m hearing “we don’t think, but we don’t know.” I’d like the Assessor to research.

Depee: Would you mind researching this?

Avery: Sure, we can do that. You have another bunch to look at next month.

Sommerhauser: I’d also like to hear the answer to John’s question on we prohibit digging and then we say can dig to restore wetland.

A motion is made by Commissioner Sommerhauser and seconded by Commissioner Gustavson to remove this for agenda until we get some answers on several questions addressed.
Paralez: What additional data? Exactly, what questions? Clarification, if a company purchases land for the purpose of reestablishing or establishing a wetland on an Open Space and uses the Current Use Open Space tax reduction opportunity, that is offensive to you?

Taylor: No, they're creating a bank.

Paralez: Is that a problem?

Sommerhauser: We don’t know that that’s a problem. The question to the Assessor is, can they give a definitive answer; it is not a problem or it is a problem.

Paralez: Why would it be a problem?

Depee: In my case, I’m asking specifically, am I subsidizing a business?

Avery: It may be at the end of the day, that if you want to prevent this from happening that you will have to ask for the public benefit rating system, which is a county ordinance, to be amended to not allow these people to take advantage.

Depee: It’s not that I don’t want to at all, I could have just slipped this by and never said a word, but I feel I have an obligation to bring forth any information.

Gustavson: In South Kitsap County roughly half the acreage is encumbered by critical areas and their buffers, most of them are placed in areas where we’d probably like to develop. These are the allowances that are in the ordinances that allow the development to occur. We have to be able to have this flexibility to move or create mitigation somewhere else.

Avery: I don think that’s the problem that Fred’s addressing. He’s just saying that when you create those, he doesn’t want those people to somehow further benefit with a tax break.

Depee: Is it fair to all the taxpayers that they’re kicking in more on one piece and this guy is profiting from that differential?

Paralez: If the law allows it, it is not our place to fix it.

Gustavson: Don’t forget, when you buy mitigation for wetlands, it’s on a ratio basis. It’s a very expensive thing to do.

Discussion is held about wetland mitigation, taxes, and code.

Depee calls for a vote.

The Vote:
Yes: 5
No: 3
The Motion Carries
Avery: The biggest question seems to be over the excavation. Is that where the essence of the question is?

Taylor: We’d also want you to talk to DCD.

Avery: They may want to weigh in.

10:01:38

Beverage presents the application for transfer to Current Use Timber Land to Current Use Open Space for Dale Finholm.

Motion is made by Commissioner Paralez and seconded by Commissioner Sommerhauser to approve the application for transfer to Current Use Timber Land to Current Use Open Space for Dale Finholm.

The Vote:
Unanimous
The motion carries

Beverage presents the application for Current Use Open Space Classification for Beverly Francis Marjorie Thorne. She adds that Ms. Thorne is applying for a conservation easement across the treed area of the land.

Depee clarifies which home is being taken out for Open Space.

Taylor: On your map, what’s the name of the cross street?

Beverage: That is a private road.

Sommerhauser: I don’t think we can approve the prospectively. We can approve the 60%, but we can’t approve the 80%. Once you get the receipt and want to make the change, you will need to come back to us then.

Beverage: OK

Motion is made by Commissioner Paralez and seconded by Commissioner Sommerhauser to approve the application for Current Use Open Space Classification for Beverly Francis Marjorie Thorne.

The Vote:
Unanimous
The motion carries

Break: 10:09:40

Reconvene: 10:22:30

Lou Foritano leaves
J. Findings of Fact – Kingston Sub-Area Plan: Pete Sullivan, Associate Planner, DCD

Sullivan recommends the approval of the Kingston Sub-Area Plan Amendments.

A motion is made by Commissioner Sommerhauser and seconded by Commissioner Nevins to approve the Amendments to the Findings of Fact for the Kingston Sub-Area Plan.

The Vote:
Yes: 7
Unanimous
The motion carries

K. Briefing – Kingston/Hansville planning updates: Pete Sullivan, Associate Planner, DCD

Sullivan reviews the Greater Hansville Community Plan.

Foritano: You may want, since you mention both futures and planning and GHAC update the body on the cause of action against the County, against GHAC, against, 30-40 members of the community, myself and my wife included, as to what the cause of action is by a small group of neighbors of ours.

Sullivan gives a brief summary of the complaint that was submitted to the County as referenced above.

Foritano adds to the summary of the cause of action and clarifies that the planning process proceeds and he raises the issue to advise that this may become a contentious issue.

10:35:30

Sommerhauser requests to be kept posted of the progress of the action.

Gustavson: Is there a county wide criteria for sub-area planning? If so, will you present it to us? There’s a little problem with GMA. In paragraph RCW 36.70 A 130.2.A subparagraph 1. Basically it prohibits further zoning, which is what typically comes in these areas. Often this kind of discussion comes from the community that is now seeing the impact of Growth Management in their back yard and they are not happy and they want to do something about it. They may not be legally allowed to do that. I’d like to know more about that. Another question that typically comes up is that boundaries are arbitrarily set. It goes back to the policy question. He further comments on the policy. Is this a legitimate activity for the County to be involved in?

Depee: I think that this is a legal question. Let’s go through the presentation. He requests that Sullivan get that question addressed back to them.

Paralez: As I understand it, this is a mechanism to update the Comprehensive Plan, is it not?
Sullivan: Yes

Paralez: That is in essence the answer to your question. I think that this mechanism to update the Comprehensive Plan and the Comprehensive Plan in itself houses the Capital Facilities plan.

Gustavson: I asked for a legal opinion. I didn’t ask for an option. The opinion I’m reading stipulates that a sub-area plan cannot modify the Comprehensive Plan policy.

Nevins: The answer to Mike’s question might be found at the Growth Management Hearings Board and that would be a place if you have that question.

Depee requests that Pete finish presentation and for legal issues we can get answers from a legal expert.

Sullivan states that legal should answer that, but states that policies that run contrary to the goals and policies of the County Comprehensive Plan would constitute a modification, but Comprehensive Plans need to be internally consistent with their own documents.

10:42:05

Sullivan continues his presentation.

Discussion is held about the GHAC boundaries, members, and community involvement.

Sullivan continues with presentation.

Sommerhauser: Conflict of interest; participants who are both Planning Commissioners and members of a community council or participants in the process; how far can you go before you have to recuse yourself in one or the other.

Nevins: I think financial interest, is the item.

Sullivan: I would have to ask legal. He continues with presentation.

Taylor requests DCD maintain a master list for mailings to community groups.

Discussion is held about the Greater Hansville plan.

Paralez: On transportation, does that include WSDOT and ferries in addition to the County transportation?

Sullivan: Kingston especially will. We haven’t engaged them in Hansville yet.

Sullivan continues presentation.
Sommerhauser: Is there an overlap in the tribal areas?

Sullivan: As a sovereign nation they won’t be included in the boundary. I imagine the goal in this plan would be to do everything possible to open the line of communication to the tribe. For example, there is a plan to redevelop the casino and would increase overnight lodging and traffic to the area.

Discussion is held about the boundaries adjacent to tribal lands.

11:06:19

Sullivan reviews the Kingston Sub-Area Plan.

Gustavson states that this all old news and has been done before.

Depee: Kingston was approved and it went back for modification twice since then.

Sullivan agrees to look into this and continues with the presentation.

Taylor: Washington State Ferries; are they thinking or talking about a major move of hwy 104 to the ferry dock?

Sullivan states that that has been proposed and the history included.

Taylor: The reason I ask the question is the ferries are the biggest player in town.

Nevins: There was a short course, planning short course held in Kingston last week. Was that specifically tailored to the Kingston group and how many people attended?

Sullivan: It was tailored towards citizen advisory committee members, residents of North Kitsap, Suquamish, Kingston, Hansville; they were all notified of this process. Usually the course is held for Planning Commissioners as a quick course on GMA. I told the coordinators that this time the audience was going to be highly motivated, engaged citizens. A lot of the GMA and high level stuff that really drives what we’re doing isn’t something they’re quite as familiar with. So, instead of hearing DCD staff make a case for GMA they get to hear it from the department that administers the act.

Foritano: One of the things that makes Kingston different than the sub-area plans that we’ve heard around the county is was the intention of the Kingston Advisory Committee that Kingston ultimately be viewed as a destination as opposed to a transit point. So the whole business of the Village Green development and the imperative of re-routing the highway are what’s going to have to happen to make that happen.

L. For the Good of the Order
Sommerhauser asks that DCD get copies of the 2009 docket to the Planning Commission.

Depee suggests that he email Scott Diener with that request.

Taylor asks about the annual meeting with the BOCC in January to go over the 2009 work schedule

Depee suggests that he email Scott Diener with that request.

Depee asks about chair nomination of a new Planning Commission chair.

Discussion is held.

A motion is made by Commissioner Paralez and seconded by Commissioner Taylor to adjourn the meeting.

The VOTE:
Unanimous
Motion Carries

Time of Adjournment:  11:27:45

EXHIBITS
A. Findings of Fact – Amendments to Kitsap County Code Title 22
B. Findings of Fact – Amendments to Kitsap County Code Title 21
C. Findings of Fact – Amendments to Kitsap County Code Title 17
D. Findings of Fact – Amendments to the Silverdale Design Standards
E. Findings of Fact – Amendments to Kingston Sub-Area Plan
F. Application for Reclassification from Current Use to Farm & Agricultural to Current Use Open Space: Black Jack Creek, LLC
G. Application for transfer to Current Use Timber Land to Current Use Open Space: Dale Finholm
H. Application for Current Use Open Space Classification: Robert Thompson
I. Application to transfer from Current Use to Farm & Agricultural to Current Use Open Space – Michael and Sally Helland
J. Application for Reclassification from Current Use to Farm & Agricultural to Current Use Open Space – Traditional Farm Land: Warren E. Lumsden
K. Application for Current Use Open Space Classification: Beverly Francis Leake Good
L. Application for Current Use Open Space Classification – Traditional Farm Land: Lynn Terry
M. Application for Current Use Open Space Classification: Beverly Francis Marjorie Thorne

MINUTES approved this _______ day of _______ 2008.

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Fred Depee, Planning Commission Chair

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Mary Seals, Planning Commission Secretary