MINUTES

Kitsap County Planning Commission
January 25, 2000

The Kitsap County Planning Commission met on the above-stated date at the County Administration Building, Commissioners Chambers, Room 104, 614 Division Street, Port Orchard, Washington. Present were: Val Torrens, Nobi Kawasaki, John Ahl, Carl Walske, Linda Rowe, Deborah Flynn, Gwendolyn Shepherd and William Matchett. Not Present: Richard McConaughy. Staff Present: Jim Svensson, John Vodopich, Jim Barnard, Jerry Harless, Peggy Bakalarski and Karen Halbeck, Secretary.

9:00 AM

Meeting Called to Order – Introductions.

9:05 AM

A Motion was made by Carl Walske and seconded by John Ahl that the Planning Commission approves the Minutes of November 30, 1999. Deborah Flynn requested a friendly amendment to change the wording on Page 337, line 42/43 to: . . . for the Planning Commission to make additional changes in the future if it is necessary to revise this plan now to accommodate the ESA requirements. Carl Walske and John Ahl accepted the friendly amendment. Vote: Aye: 5, Nay: 0, Abstain: 3 (Matchett, Rowe and Shepherd, not present at hearing). Motion carried.

A Motion was made by Deborah Flynn and seconded by Linda Rowe that the Planning Commission approves the Minutes of December 7, 1999. Vote: Aye: 7; Nay: 0; Abstain 1 (Walske, not present at hearing). Motion carried.

9:10 AM

Election of Planning Commission Chair and Vice-Chair for calendar year 2000.

A Motion was made by William Matchett to nominate Nobi Kawasaki Planning Commission Chair for calendar year 2000. Carl Walske seconded motion. Vote: Aye: 8; Nay: 0. Motion carried unanimously.

A Motion was made by Deborah Flynn to nominate John Ahl Planning Commission Vice-Chair for calendar year 2000. Val Torrens seconded motion. Vote: Aye: 8; Nay: 0. Motion carried unanimously.
Public Hearing to receive oral and written testimony regarding the following County Ordinances:

1. Revisions to Ordinance 106-B-1990, an Ordinance relating to Large Lot Subdivisions that are defined as divisions of land into parcels containing five (5) or more acres.

Jim Svensson recounted that the initial ordinance was adopted in the late 1980’s to be used for the subdivision of 5 to 20 acre parcels, adding that the County’s zoning then allowed for the creation of 2- acre lot. He said the adoption of the most recent Comprehensive Plan has made the Large Lot Subdivision process nearly impossible to complete because of inconsistencies between the Plan and this Ordinance. He explained that the County will need to do a comprehensive revision of all the ordinances, large lot, short plat and so forth, which will be an extensive process in the County, but this amendment is a “quick fix” allowing developers to use this Ordinance to continue development. He made it clear that these ordinances should be added to the work program within the next year that will address thorough changes. He reported that this proposed amendment has some basic changes to make this ordinance more workable in the interim, such as: reducing the access standards; allow roads within Large Lot subdivisions to be private easements or allowing a range of widths between 30 and 50 feet; and changing the agency responsible for administration from the Department of Public Works to the Department of Community Development. He stated that the draft ordinance contains some typographical errors that he outlined for the Planning Commission, adding that the staff was aware of those and they will be corrected with the final draft. He said there have been suggestions to the legal boilerplate language and he will discuss these recommendations with County’s legal staff. He said that following the testimony at this hearing, the staff will create a re-draft of this ordinance that will be ready in about 2 to 3 weeks. He said that because the subdivision ordinance applied to segregations of 5 to 20 acre parcels, before the County’s Comprehensive Plan was adopted the large lot subdivision ordinance would create several 5 acre parcels and then almost immediately these would be subdivided by a short plat provision into smaller parcels.

Deborah Flynn asked if large tract segregations were taking place in this County?

Jim Svensson said yes, if they divide parcels over 20 acres; they are not regulated by a county ordinance.

Jim Barnard said there were changes to the Ordinance in 1990 that required a property owner to dedicate a road inside the property to access the entire parcel and purchase a right-of-way easement before the subdivision could occur. He explained that the ordinance was amended to include requirements for dedication of a right-of-way inside the property boundary so that a County Road Improvement District (CRID) could be formed and the roads paved in the future. He said that prior to 1990 the road structure was required to be a 20-foot driving surface and then if there was a formation of a CRID the road needed to be widened to enable the County to maintain it. He reported that
some of these roads now cannot be further developed because the County’s
Comprehensive Plan requires a 50-foot wide easement road which has restricted many
people from developing their 20-acre parcels. He then gave some examples of these
difficulties for the members. He agreed that this ordinance needed a total revamp which
is not feasible at this time, so these changes will be a quick fix to the property owners so
they will be able to develop their land. He said that a committee that included a county
engineer and land surveyors, as well as members of the Homebuilders Association has
reviewed these changes. He said that to date, staff has received 3 responses on the draft.
He made it clear that these lots will not be expected to be further divided down from the
5-acre parcels because of the County’s Zoning Ordinance.

Linda Rowe asked how the 2 to 1 land ratio came about?

Jim Barnard said that this pertains to the width versus the length, which is part of the
zoning regulations, adding that this provision was put in place to prevent the creation of
additional long skinny lots in this County. He said that the amendments to this Ordinance
will do away with a requirement for dedicated right-of-ways, adding that there has been a
provision added to allow for private easements. He said that a developer could still make
dedicated right-of-ways to meet county standards if he chose to do so, but it would not be
required.

Linda Rowe asked if these private roads needed a road maintenance agreement, because
many times an agreement is developed but not recorded.

Jim Barnard said that was not included in this amendment, but probably should be added.

Nobi Kawasaki said that someday these parcels could be reduced in size if they were
adjacent to an Urban Growth Area (UGA) that may expand.

Jim Svensson said that these requirements in the Ordinance are the minimum, adding
that in areas zoned urban reserve where the densities may change; the County may hold
the owner to more than the minimum standard. He said that Section 23 addresses a
prohibition on further development until the roads meet the higher standards.

Deborah Flynn asked what the benefit was to requiring the 2 to 1 ratio on lot
development?

Jim Svensson said this was to get a handle on these smaller lots and prevent the creation
of long narrow lots. He further explained that before this regulation came about there
were lots created that may not be wide enough to provide access to the property and
place a home on the site.

Deborah Flynn said with stream buffers a long narrow lot might be more beneficial to
meet the setback requirements and still maintain a home site. She asked if it would be
appropriate to reduce the amount of impervious surfaces on a roadway, noting that many
roads have been over-engineered to include paving the shoulder as well as the roadway?

Jim Barnard said that the requirement in this Ordinance would be to have the roadways
meet fire department standards for safety. He said that the entire easement need not be
cleared; the rest of the vegetation shall remain in its natural state.
Deborah Flynn said Section 22, Page 12 of the Ordinance addressed waiving some of the standards and asked why this was stated without providing some examples?

Val Torrens agreed and suggested that examples of when the standards could be waived would show that the County has specific requirements that can be waived and that staff were not tempted by bias.

Mike Hancock addressed the Planning Commission members that these amendments solved his greatest concerns with this Ordinance and appreciated that the staff was willing to do a “quick fix” now to allow the developers to continue with their projects in this County. He had hoped that this Ordinance was not delayed by several re-drafts, which require additional hearings. He asked the Planning Commission to direct staff to correct the grammatical errors with the approval of the Ordinance, and then quickly pass it on to the Board of Commissioners so that it can be approved in the shortest time possible. He pointed out some time frame issues to the members. He said in the Definitions Section beginning on Page 1, change the language for Large Lot Subdivision to read: . . . redivisions of land are equal to or greater than 20 acres. He felt that the length to width ratios, that came about to prevent long skinny lots in urban areas such as Suquamish and to prevent those from being created and in rural areas, really does not apply. He gave some examples of the long narrow lots and how they could be used in a rural atmosphere. He would like the length to width ratio to be disregarded. He expressed that there was a provision to address the avoidance of sub-standard roads with the “fixes” in this Ordinance.

Ron Ross said that the staff has worked with him to correct many of these typos. He said he was in favor of the quick fixes to allow development to continue. He felt that standards for waiving requirements should be outlined and not be left to the discretion of the director. He felt that the 2 to 1 ratio is not beneficial to either the County or the developer. He said that the access to the property should be limited, which was listed in the amendments. He felt that there needed to be cross references included with all of the ordinances. On page 3, he continued, the definition of Original Tract, should simply state that it be the legal description of the property owned by the developer. He felt that as it was defined, if he owned the adjacent properties as well, all those in his ownership that were contiguous would need to be developed at the same time. He felt that the owner, by definition, should be the owner of record. He disagreed with Section 7 (b) on Page 4 where buffers needed to be at least 25 feet in width, adding that there should be standards addressed and asked what was the purpose of the buffer? He said that greenbelts should be required instead of buffers and gave some examples of why it needed to be changed.

Nobi Kawasaki said that ultimately what the County needed to do was to get some consistencies in the subdivision ordinances, which will shake out when all of the ordinances are modified.

Ron Ross felt that all of these ordinances needed to be correlated. He said on page 5, Section 7 (h), the last sentence, “If slopes less than 30% contain soils designated unstable by the Soils Survey of Kitsap County they shall be delineated on the map.” He suggested changing the wording to unstable soils need to be shown. He noted the section for environmentally sensitive areas and asked the meaning of an undue burden?
Nobi Kawasaki said that when staff goes through this Ordinance thoroughly it will become consistent with the other ordinances.

Ron Ross said in Section 21, Page 11, Final Large Lot Approval – Time Limit. Final plats shall be approved, disapproved or returned to the applicant within fifteen (15) working days... He said strike, returned to the applicant.

Val Torrens said that should address the time necessary for the department to get the application back to the applicant.

Ron Ross said that this time limit should be changed from 15 days to 20 days. He continued with Section 25, Page 13, which he felt should be omitted completely, because it was very confusing; and Section 28, Paragraph (a), should be re-worded for clarification.

Val Torrens said that the changes addressed should be only on the shaded and outlined area; the rest of the Ordinance was currently in effect.

Ron Ross said that these things that he was addressing have bothered him and he would like to have his say. He noted other public needs should be included in the Large Lot Ordinance and that should be eliminated or included in the standards.

Carl Walske asked when the new draft will be presented before the Planning Commission?

Jim Svensson said that this will be corrected and back to the members in about a month for further public comment.

John Ahl asked if the shaded as well as the substantive portions of this Ordinance could be corrected?

Jim Svensson said that the legal boilerplate language could be discussed with staff and the Prosecutors Office, and they will investigate the concerns addressed by Ron Ross.

John Ahl asked why there was an emergency to adopt this Ordinance if taking another 4 weeks by staff to clear of all of the errors could alleviate all the problems with this Ordinance?

Jim Svensson said that even with the quick fix there should not be any gapping holes in this Ordinance. He said to correct all of the errors would be to combine all of these types of ordinances into one large ordinance.

Val Torrens said that she understood the frustration of the public, when they have asked for these changes to be made and are told that they will be made later when these ordinances are fully reviewed.

Jim Svensson said that, in the past, staff has been working on crisis management. He said that correcting all of these similar ordinances should be a high priority but it will be a big project and needs to be placed on the yearly work program, which is not scheduled for this year.
Mike Hancock said that the draft ordinance amendment became available in early 1999; it was in preliminary draft form since September 1999. He said he has a project on hold waiting for this to be adopted. He proposed to the Planning Commission that unless there were specific problems there should be grammatical changes made and then move this Ordinance forward to be adopted to by the Board of Commissioners.

Jim Svensson felt that the Planning Commission could make its recommendation to the Board of Commissioners at this hearing, with instructions for staff to make corrections to the typographical errors.

Nobi Kawasaki felt that the draft ordinance should be close to final before the Planning Commission approves it.

Deborah Flynn felt that there were enough issues brought up at this hearing that needed to be reviewed further by staff. She felt that this ordinance was being changed because the County’s Comprehensive Plan would no longer allow subdivisions into 2 ½ acre lots as well as changes to the road standards outlined in Section 23(a).

Jim Svensson said that the change to the road standards was the primary issue.

Linda Rowe said that maintenance of roads was addressed in different areas of the ordinance. She said that many properties do not have recorded road maintenance agreements, which is a problem that the title companies come across when property is purchased and the deed is recorded.

Jim Svensson said that requirements to record road maintenance agreements will be added to the next draft of this ordinance.

(Val Torrens left the meeting at the end of the discussion on the County Ordinance for Large Lot Subdivisions.)

2) A new Ordinance regarding **Regulating Boundary Line Adjustments**, which involve platted or unplatted lots, which do not create an additional lot, tract, parcel, site or division, nor create any lot, tract, parcel, site or division which contains insufficient area and dimension to meet minimum requirements for width and area for a lot as required by the Kitsap County Zoning Ordinance in effect at the time a fully completed application for a Boundary Line Adjustment is received by the County.

Jim Barnard said that Kitsap County was one of the last counties in Washington to create an ordinance regulating Boundary Line Adjustments. He said that in order to create this proposed ordinance, staff reviewed those approved in other counties. He recounted that the original draft was created in 1993 and was reviewed again in 1997. He said that a community committee was formed using staff from title companies, real estate agencies and licensed surveyors, along with County staff. He said the committee was formed in May 1997; amendments were then made to the draft, and the committee met again in June 1997, but there were still problems to be solved. He said they then solicited and received comments from the public. He reviewed for the members that the Boundary Line Adjustment Ordinance (BLA) was formed because in the review of created boundary lines there were bad legal descriptions created which did not coincide with property boundaries, non-conforming lots were created; widths and depths did not meet the requirements of
the County’s zoning ordinance and so forth. He displayed some examples of platted lots modified by lot line adjustments, showing before and after the configurations. He reported that in 1993 and 1994, the County asked for volunteer submittals of BLAs for review by staff, but this practice is no long being done. He expressed that those BLAs that were done by licensed land surveyors were comprehensive and very detailed, and therefore staff felt that it was appropriate to require a licensed land surveyor write the legal description for the recorded parcel. He said there would be some instances where staff would require surveys of the properties, adding that this will also require a title certificate depicting accesses, easements and encumbrances and any vesting on the property. He said that Section 11, Page 9, listed all the specific instances, which would need to be handled by licensed surveyors. He made it clear that all BLAs will not need to be surveyed and gave examples of when they would be required.

John Ahl said in reading the ordinance it appears that this came about to correct errors that occurred in the past with regard to the placement of boundary lines, and now from the review presented by Jim Barnard it seems that this ordinance has become more pervasive in nature.

Jim Barnard said that the intent of this ordinance was to prevent the establishment of non-conforming lots, illegal lots and so forth, which have created problems in this County. He reported that many BLAs have been recorded but the reconfigurations are what cause problems, noting an example where the newly created lots were now land locked.

Nobi Kawasaki asked that if a driveway had been established on another person’s property would this create a need to have a BLA to adjust the property line?

Linda Rowe said that the example at first glance looked like a re-plat instead of BLA, without knowing if it was appropriate for the zoning in that area.

Carl Walske asked if there were limitations to creating property divisions with a Boundary Line Adjustment and questioned how staff will draw the line with standards from this proposed ordinance? He asked if by using a Boundary Line Adjustment you created additional conforming lots, would that be acceptable?

John Ahl gave an example of adverse possession and asked how that would work?

Jim Barnard said that if a boundary line procedure could be done that, together with the rules printed in the Revised Code of Washington, would be the best way to clean up the title for the property.

Deborah Flynn asked if the Snohomish County ordinance was reviewed in creating this Ordinance?

Jim Barnard said yes, adding that that was one of the best examples of a Boundary Line Adjustment Ordinance.

Linda Rowe felt that in dealing with adverse possession the property may need to be litigated.
John Ahl felt that the way the lots are subdivided in this County it could easily become a ripple effect when the correct boundary line is determined on the first lot then each lot down the road may need to have its lot lines adjusted as well.

Jim Barnard said that in a few instances with older plats, the first person to develop in the plat changes the lot lines for the entire plat.

John Vodopich said for clarification, the county would not be concerned about the amount of lots but whether a Boundary Line Adjustment created non-conforming lots where the required setbacks would not allow structures to be built.

Norm Olson of N.L. Olson & Associates said that Kitsap County has many regulations, but this ordinance is not what this county needs. He explained that currently a survey takes about a week; with the adoption of this ordinance, this simple process would now cost thousands of dollars and take many months of work to complete. He reported that all of the site improvements will need to be located, which will need to be submitted to the Health District with the soil logs, as well as locating all of the septic drainfields. He felt that this process was much more than was necessary. He reported that this proposed ordinance would allow about 120 working days to complete by County staff. He noted that Section 6(C) calls for existing structures and drainfields to be located within 50 feet of the proposed adjusted lines. He then explained what this would entail for the surveyor. He felt that this requirement should be only within the limits of the BLA properties. The State Survey Recording Act detailed in the RCW requires that if permanent boundaries are marked, they must be recorded. He said that the ordinance would require that the application be reviewed by several different departments within 2 days, which is nearly impossible, and then a 20-day response time for the other outside departments, which is not a realistic timeframe either. He suggested that there be some very stiff timelines and if no response has been received by the deadline, then the BLA is automatically accepted without a response. He also suggested that the County change the wording to: "a licensed land surveyor needs to certify instead of be done by a licensed surveyor."

Linda Rowe and Mr. Olson discussed the reason that 90% of the surveys he does were not necessary. Mr. Olson gave some examples of when he uses boundary markers and when it is not necessary.

Ronald C. Templeton said he disagreed with Mr. Olson; there was no reason for the County to create this ordinance, using the analogy if “everyone jumped off the bridge would you jump too?” He felt that the majority of the lawyers, real estate people, homebuilders and so forth were against this ordinance. He felt it will not serve the public interest by enacting this ordinance. He gave some examples of boundary line adjustments where he prepares a simple document to correct the line without a survey. He said that when a development application is submitted to the County, water availability, sewer lines and so forth as well as the property boundaries are reviewed. He felt that the reason that there are bad legal descriptions on record is when a layperson filled out the legal description in place of a surveyor or an attorney. He made it clear that the creation of new lots or a sub standard lot are illegal under state statute.

Reed Muller, a licensed land surveyor, said that there is a Declaration of Partition, which this ordinance is trying to cover. He gave an example for the members of a single owner with 3 adjacent tax parcels, purchased a different times. He explained that the smallest tract was useless because it was too small to build on. He explained that the owner
wanted to reconfigure the tax parcels so that he had 3 usable pieces of ground. With the use of a Boundary Line Adjustment, he continued, the county benefited tax wise by creating 3 usable lots. He then gave another example of a BLA which could be handled under the state law defined in the RCW, but would not be addressed under the proposed ordinance. He felt that there have been very few problems with the Boundary Line Adjustment process and therefore should not require the creation of a County ordinance.

Linda Rowe asked whether, in the examples that Mr. Muller described, these lots could be developed or would it become more difficult with the enactment of this proposed ordinance?

Reed Muller said that the lots could still be divided, but the cost to the owner would be astronomical.

Linda Rowe felt that the County wanted this ordinance to protect all landowners equally and felt some land should be surveyed, especially if there were curved lines that depicted a boundary.

Reed Muller agreed that at some point in time a survey would be necessary, but not until a parcel is developed or improved. He said that with the BLA it is impossible to record an illegal lot that is protected by the Subdivision Ordinance and the Platting Ordinance.

Nobi Kawasaki said that the creation of illegal lots is the problem.

Carl Walske said Mr. Muller’s example of the 3 non-conforming lots, where 2 were buildable and the third one was not buildable; this would increase the amount of lots to 3 non-conforming lots that are buildable. He asked if this ordinance were not enacted, what tools the staff would have to deal with this situation if they wanted to prevent it?

Reed Muller said in that case an attorney would be in the position to certify that this was a buildable lot. He felt that the public in mass determines that something should be dealt with; they tell the public entities that an ordinance needs to be developed to protect them from harm.

Carl Walske was concerned that this particular Boundary Line Adjustment created 3 buildable lots instead of the 2 lots that were buildable before this process.

Reed Mueller felt that the county staff could develop a more in depth review process, but not as restrictive and expensive as the ordinance that is being proposed.

Reed Muller and Carl Walske then discussed some various scenarios when a BLA would be acceptable and those situations where it would not.

Carl Walske questioned whether the Department of Community Development Director could waive the requirements in the ordinance if he/she felt they were not necessary?

Reed Mueller said that would be better, as long as they were defined standards.

Deborah Flynn asked if someone could come to the point with all the information presented.
Reed Mueller said that requirements for Boundary Line Adjustments are state law and clearly defined in the State RCW. He felt that if the community was not present at this hearing voicing their objections why was the County requiring that an ordinance be enacted?

Deborah Flynn said that with the Growth Management Act and the adoption of our County’s Comprehensive Plan, there are some requirements that this County must follow and these regulations do have a place in the system.

Jerry Harless reported that whether substandard lots can be developed is addressed in the County’s Zoning Ordinance. He made it clear that the County is trying to protect the public at large and it is appropriate for them to step in and protect the residents. Currently, he continued, the Boundary Line Adjustment issue is addressed when a building permit is applied for and a building lot is determined to be acceptable by our Zoning Ordinance.

Deborah Flynn said when owners come in with applications to build on a non-conforming lot, they are allowed to build, but she felt that the creation of additional non-conforming lots should be prohibited.

Jerry Harless said that in order to approve construction on a non-conforming lot, it would require that the applicant go through a variance procedure.

Carl Walske asked when the staff had the authority to restrict 2 lots being created into 3 non-conforming lots?

Jerry Harless said that staff would need to make an amendment to the County’s Zoning Ordinance.

Nobi Kawasaki said that in most cases the Planning Commission has limited testimony, but this lengthy testimony has given the members some valuable information. He then polled the members to see if there would be a quorum if this hearing was continued to the afternoon. It was determined that many of the members would not be able to stay, so he announced that this hearing will be continued to take additional testimony on the proposed Boundary Line Adjustment Ordinance exclusively.

The meeting was recessed until February 8th, 2000 beginning at 9:00a.m., at the Commissioners Chambers, County Administration Building, Port Orchard, Washington

### DOCUMENTS RECEIVED AT PUBLIC HEARING

<table>
<thead>
<tr>
<th>Document No.</th>
<th>Description</th>
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<tbody>
<tr>
<td>A.</td>
<td>Planning Commission Agenda, dated January 25, 2000;</td>
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<tr>
<td>B.</td>
<td>Sign-up Sheet for Public Testimony, January 25, 2000;</td>
</tr>
<tr>
<td>C.</td>
<td>Ordinance Amendment relating to Large Lot Subdivisions, dated 1-11-00;</td>
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<tr>
<td>D.</td>
<td>Draft Ordinance Relating to Boundary Line Adjustments, dated Jan 11, 2000;</td>
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<tr>
<td>E.</td>
<td>RCW 58-04-007 regarding Boundary Line Adjustments;</td>
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<tr>
<td>F.</td>
<td>Plat Map – Original Parcels &amp; Resultant Parcels;</td>
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</tbody>
</table>
G. Quit Claim Deed and Agreement for Fixing and Adjusting Boundary Line, submitted by Reed Muller;
H. Replat of part of Gaffner’s Garden Tracts, submitted by Reed Muller;
I. Agreement Resolving Disputed Boundary Line, prepared by Hill, Pinckney, Kintner & West, PS., Bremerton WA;
J. Quit Claim Deed and Boundary Line Adjustment;
K. Map of Boundary Line Adjustment for Caldwell/Grubb properties, submitted by Reed Muller;
L. Declaration of Partition, submitted by Reed Muller.

MINUTES approved this _______ day of ___________, 2000.

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NOBI KAWASAKI, CHAIR

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KAREN HALBECK, SECRETARY