
9:00 A.M.

Meeting Called to Order – Introductions and Agenda Review.

Tom Nevins, Acting Chair, called the meeting to order and provided a summary of agenda items that were to be addressed. Introductions were provided shortly after the meeting had started to include the addition of a new member, John Taylor, whom Tom Nevins welcomed.

The first item on the agenda related to development code amendments that would be covered by Kelly Robinson in more detail.

Prior to addressing that item on the agenda, however, he would like to move forward on the Kitsap County Emergency Flood Ordinance, as it should not take very long to cover. The remaining agenda items would then follow with the Comprehensive Plan Amendments (Part 1) to be addressed by Laura Ditmer.

Other Business would include coming forward with suggestions for findings of fact relating to amendments to the Kitsap County Comprehensive Plan Zoning Code and other applicable development regulations pertaining to Ordinance 269.

Acceptance of Previous Meeting Minutes from April 8, 2003 and April 15, 2003

Tom Nevins, Acting Chair, stated that the Planning Commission had received two sets of minutes, from April 8, 2003 and April 15, 2003. It was noted that the copies provided to the Planning Commission were only drafts and did not reflect the corrections submitted by various members of the Planning Commission. The minutes would therefore not be adopted at this meeting and would be held until a revision was provided that included the recommended changes.

William Matchett asked that future agendas specify which minutes would be considered at each meeting.
Work Study Session Only – on Kitsap County Emergency Flood Ordinance

Tom Nevins, Acting Chair, verified that all members had the packet regarding this ordinance.

Renee Beam with Department of Community Development stated she was presenting a Flood Ordinance that had previously been adopted as an Emergency Flood Ordinance by the Board of County Commissioners on May 5, 2003. It was adopted as an Emergency amendment within Chapter 15 of the County Code due to an audit of Kitsap County’s existing flood codes by Community Assistance in the Department Ecology. It was found that Kitsap County was not in compliance with the existing Model Flood Ordinance. Kitsap County made the appropriate changes to bring the ordinance into compliance and those revisions were adopted by the Board of County Commissioners on May 5, 2003 as an emergency ordinance. The changes affect the way in which some permits are issued and it is therefore being presented to the Planning Commission for review. Once the Planning Commission has acted on it, the ordinance will again be presented to the Board of County Commissioners to be codified. Information was provided to the Board of County Commissioners that is also being provided to the Planning Commission on the consequences of noncompliance with the Model Flood Ordinance. Noncompliance would make Kitsap County property owners ineligible for preferential rates under the Federal Flood Insurance program. Additionally, Kitsap County would not receive federal grant funding on certain things. Although Kitsap County does not encounter regular flooding, grant applications ask if the application is in compliance with the Flood Ordinance; if not the application is denied.

Staff has, essentially, taken the Model Flood Ordinance and Kitsap County’s existing ordinance and attempted to combine the two in a way that ensures consistency with Kitsap County Building Code, Enforcement Code, Critical Areas Ordinance, Shoreline Management Master Program and Procedures Ordinance. Mike Barth is in attendance at this meeting and, as Building Official for Kitsap County, can address any building questions the Planning Commission might have.

Many of the definitions have been changed to be consistent with our existing ordinances. The Planning Commission is requested to review this ordinance with the matter coming back for a full Public Hearing on June 3, 2003. Both Renee Beam and Mike Barth will be in attendance to answer any questions at that time.

John Ahl requested clarification for why it had been approved by the Board of County Commissioners and was only now being brought forward to the Planning Commission and being slated for a Public Hearing.

Renee Beam reiterated that it was approved as an emergency ordinance to ensure immediate compliance. It affects the building codes and, therefore, must ultimately be adopted and codified into the County Code. It was adopted as an emergency ordinance to prevent delays in grant funding and securing flood insurance for our citizens. The
Emergency Ordinance now needed to go through the appropriate steps in order to be codified.

William Matchett verified that the revised Flood Ordinance would be going through a Public Hearing, which was confirmed by Renee Beam.

Monty Mahan asked if Renee could bring a map to the next meeting showing the flood-plane areas in Kitsap County. Renee indicated that there are about 300 panels involved, but she would bring some examples to the next meeting. She also noted that current maps were from 1980 and the Department of Ecology will be providing remapping, possibly in 2004.

Tom Nevins, Acting Chair, wanted to know how a prospective property buyer would find out if their property was in a flood area. Renee indicated that they could call the County Planning Department, obtain flood insurance rate maps, obtain a Flood Certificate from a Licensed Engineer or Licensed Surveyor. Renee Beam stated that they would not be notified, but that they would need to come to the county and look at the maps.

With regard to engineering and survey requirements, preexisting properties would be grandfathered.

William Matchett asked if people in flood areas were notified by the County. If not, how would they know? He also expressed concern regarding flood insurance issues. Renee Beam stated that when building permits are reviewed, that is one of the items that they look for.

William Matchett continued to express concern that existing homeowners would not have a way to know if they were in a flood zone.

John Taylor clarified that a Flood Certificate was provided as part of the Title Insurance when property was purchased and the information is conveyed to the owner at that time. William Matchett continued to express concern that individuals who had property for a long period of time still might not be aware the flood zone areas.

Renee Beam offered to provide the Planning Commission with a book that provided complete information on flood insurance, a rather substantial amount of information. This was declined by the Planning Commission as being unnecessary.

Mike Gustavson referred to Page 11, near the top, paragraph 2-A. He recommended the end of the sub-sentence have “unless elevated per 15.12.090” because this was a previously allowed use. Additionally, in subparagraph B, below it, he recommended that the words “the cost of which does not exceed 50% of market value” be removed. His reasoning was that would be essentially unenforceable depending on the type and quality of materials used. He did not see how this would benefit the County, tax base or anyone else by making that restriction.
Renee Beam clarified that one of the problems related to complying with the Model Flood Ordinance was ensuring compliance with State Law and that some wording, such as this, could not be revised.

Mike Gustavson stated that he would still question that item, even if it was based on State Law. He also stated that the State should be questioned on that. Renee agreed to attempt to address the matter at a higher level.

Mike Gustavson next addressed Page 11, 15.12.130, Line 3, toward the end, “high velocity waters and tidal surges” might be too general. A tsunami is a tidal surge and runs up the shore 30 feet vertically. He is unaware of Kitsap County areas where there are tidal surges other than tsunamis, but the risk is up to 30 feet up the wall from the beach. He questioned the appropriateness of that wording.

Renee Beam stated that this section was within the existing code. Mike Gustavson understood that, but still felt it was not appropriate. Renee agreed to look into it. She noted, however, that she had seen extreme tidal elevations when a low pressure zone brings everything up. Mike Gustavson felt that it was only by about a foot, although Renee felt it would be more than that if there was a strong north wind, which could result in a lot of damage. Mike Gustavson continued to question the appropriateness of the “tidal surge” wording and asked that “high tide line” be considered as an alternative. Renee stated she would look into that to see if it would still meet requirements.

Mike Gustavson next addressed Page 12, about two-thirds of the way down, subparagraph 3, which prohibits construction within reach of the high tide. It appeared to suggest that this prohibits any piers in Kitsap County. Renee Beam stated this was not the intent of the wording. Mike Gustavson requested wording stating that piers were excluded. Renee noted that piers may be covered elsewhere, but she would ensure the wording was clear on that matter.

Deborah Flynn stated that there was an existing section that exempts water dependent use. Mike Gustavson still felt that there could be better clarification of the wording.

Renee Beam again stressed that they were attempting to combine County and State ordinances. In its current form they were still having some difficulty getting it approved through the Department of Ecology due to their very specific wording requirements.

Mike Gustavson stated that, regardless of the need to meet those requirements, the wording should still make sense and be understandable. He then referred to Page 13, subparagraph 6, with the term “sand dunes.” He felt that was not applicable to Kitsap County and should possibly be substituted with the word “beaches.” Renee was in agreement, although there were a few areas that might be considered to have dune characteristics within the County. However, again, this is from the language in the Model that they were required to comply with.
Mike Gustavson addressed Page 15, near the top, Line 2, toward the end where it referred to lots that were “of 1/2 acre or less.” He stated that this wording penalized people where other setback requirements would take precedence. A smaller lot, sometimes with a marginal difference, should not be assigned a different use. Deborah Flynn stated that what he was referring to was a variance.

Renee Beam stated that this was one of the areas of difficulty in having the wording comply with the Model Flood Ordinance and the State wanted the concept of a variance to the flood zone to be included. Kitsap County generally would not issue a permit in a flood zone, but the Model Flood Ordinance actually allows a whole variance process. It includes creating an Appeal Board to consider whether or not people should be allowed to build within flood areas. Staff had tried to take that language out and make the variance process consistent with existing Kitsap County ordinance so that a variance would go the Hearings Examiner. They have tried to use Criteria A through K, which are the criteria in the Model Flood Ordinance. What Mike Gustavson is commenting on was related to the language taken directly out of the Model Flood Ordinance. It’s there because it’s required in order to be consistent with what the State requires. It is not a situation that would necessarily occur within Kitsap County.

Mike Gustavson stressed that he felt that line and the last underlined section in that same paragraph were directly counter to what is found in 15.12, line 0, which allows construction on piers.

Renee Beam clarified that the Kitsap County Shoreline Management Program, as well as the Zoning Code, would allow over the water construction on a pier if it was a conversion of an existing structure, like a net shed or boat shed. Those are existing, nonconforming structures that would fall within that category as opposed to new construction out over the water.

Mike Gustavson asked that they look at the wording to see if it could be clarified and to ensure there were no conflicts within the documentation itself.

Additionally, Mike Gustavson addressed Page 15, in the middle of subparagraph 6, which refers to small lots in densely populated areas. He asked for clarification of densely populated, as well as whether it relates to whether it is currently densely populated or platted for later increases in population density. He felt this should be clarified.

Renee Beam stressed that the ordinances they were required to comply with covered everything throughout the United States, as far away as Florida, and that all wording might not necessarily be applicable to Kitsap County.

Monty Mahan asked if that phrasing came from the Federal wording; Renee verified that it had. It was not written by the County but was included in order to be in compliance.

Mike Gustavson stated it should still be clarified as the existing wording was confusing. That was the last item Mike Gustavson had to address on this matter.
Tom Nevins, Acting Chair, stated that they would have a Public Hearing on June 3, 2003 to address the matter further.

- Work Study Session Only – on Development Code Amendments

Tom Nevins, Acting Chair, stated that the next agenda item, Development Code Amendments, included 35 different items. The Board of County Commissioners had specifically requested that the Planning Commission review all items and provide a recommendation on each, with any amendments provided to the Board of County Commissioners by the end of summer. In an effort to streamline the process, Tom Nevins, Acting Chair, suggested they briefly go over each item and determine which ones the Planning Commission agreed to without further discussion, they could then cover the remainder in more detail. It was agreed that this would be a good way to address the volume involved.

Before proceeding, Kelly Robinson verified that each Planning Commission member had the blue notebook providing applicable documentation. For those members who did not have a notebook, a handout was provided that summarized the information being considered. In addition there are three other documents for proper consideration. There is a list and some staff reports that provide background information on most of the items.

Additionally, based on the instructions received from the Planning Commission, Staff had made additional outreach efforts and had received feedback relating to three of the items. The outreach was expanded to the Central Kitsap Coordinating Council, North Kitsap Coordinating Council, both tribes, Kitsap County Association of Realtors, West Sound Conservation Council, Kitsap Home Builders, Kitsap Alliance of Property Owners, and Pope & Talbot. The outreach included a cover letter describing the process and inviting their participation. It described the schedule and then made an offer to meet with each organization in the manner of their choice to answer questions and/or address concerns. They were advised that their information and responses would be provided to the Planning Commission and followed-up at the hearings.

Kelly Robinson asked if there were any other organizations the Planning Commission wanted to be included in the expanded outreach. Gun-related organizations were discussed with a request for any specific organizations the Planning Commission might be aware of. There had been groups in the past that evolved due to potential gun ranges but other than a few business cards retained by Kelly Robinson there were no specific groups or organizations that the Planning Commission was aware of.

John Ahl, stated there were two proposed changes that affected schools in Kitsap County. He had provided a copy to the North Kitsap school District and recommended copies be provided to Central and South Kitsap School Districts, as well as Bremerton, with William Matchett being in agreement.
Kelly Robinson agreed that they would be notified and added them to the list. He asked for any other suggestions as they should occur. He then addressed feedback that had been received in response to their outreach to-date.

Regarding Item 2, allowing the County, on their own initiative, to write rules and interpretations of the Code, Deborah Flynn had asked at the last meeting if the Planning Commission would be involved and, if so, what was the mechanism and how it would be distinguished from an ordinance involving public hearings and such. Kelly spoke to several people, particularly Kitsap County Civil Deputy Prosecutors, and looked at the language in other urban counties in the region with a model emerging. The County would write a rule, the Director would sign the rule and transfer it in a formal notice to the Board of County Commissioners with a 60 day clock on it. They could either accept it by motion, reject it whole, send it to the planning commission, or they could ignore it. In 60 days, if no action was taken to reject it, it would automatically be accepted as a rule. That is a model that has worked well in other counties. It provides some due process, but eliminates a simple clarification issue from getting bogged down in the process. The process would, however, allow for feedback requiring that it be resubmitted if necessary. That's the language that will be put in the hearing draft unless otherwise requested by the Planning Commission.

William Matchett asked whether it would involve a public hearing if it came to the Planning Commission. Kelly Robinson stated that it would be up to the Planning Commission’s, but they would not be required to do so. The final outcome would not depend on the results of any Public Hearing.

William Matchett further clarified that this just applied to interpretation of existing rules, which was confirmed by Kelly Robinson.

Kamuron Gurol, new Department of Community Development Director, stated that Kelly Robinson's recommendation made sense based on his experience in other counties. The key requirement for a rule is that it provide clear criteria and be consistently applied across time and applications that had features in common. The interpretation should be made consistently by the Staff and this would enable that. Additionally, in making the rule, the Department of Community Development would agree to hold its own workshops, form a stakeholder committee or solicit input from individuals that would be impacted to help in making that rule. So, even before it reached the Board of County Commissioners, and the 60 day period began, there would have been a process required through the Department of Community Development. His goal for the Department of Community Development was to have as open and clear a process as possible so that all parties are aware of what is occurring. He would expect the County to make sure stakeholders were aware of any changes, particularly significant changes; although there are some rules that are fairly insignificant and probably wouldn’t attract a lot of attention. Regardless, they would still go through the process to ensure necessary parties had the opportunity to address them.

Kelly Robinson stated that another issue was whether the Planning Commission would support or not support a proposed boundary line adjustment. As a reminder, there is no ordinance describing how the County handles boundary line adjustments. State
Law explicitly excepts a process called a boundary line adjustment from the subdivision rules and Staff use it for some guidance along with some internal rules. If a boundary line adjustment is requested before having it recorded there is a form to complete, and Staff advise the applicant of the standards that will be applied. If it is found that the boundary line adjustments don’t violate any planning principles with regard to buildability, etc., they will be provided with a letter to that effect which can be recorded with the boundary line adjustments and eliminate potential problems when requesting building permits by bringing the letter along. There are three tests up front:

1. You cannot create any new lots. If there are three lots to start with, you have to end up with three at the end of the boundary line adjustments.

2. You cannot deny anybody access. In fact, if you have a landlocked lot at the time of the boundary line adjustments, Staff will require that it not be landlocked after the boundary line adjustments are completed.

3. Boundary line adjustments are not allowed where they would create a lot that is bisected by a road or easement. The reason is that there is State Law that has been interpreted where the road or easement eventually creates separate lots, thereby violating the first requirement of not creating new lots with the boundary line adjustment.

After the initial three tests, there are two matrices, one before and one after the boundary line adjustments. On the left side of the matrix the lots are listed, with bulk dimensional standards across the top:

1. Lot size: relating to minimum lot sizes for the applicable zone.

2. Skinny lot rule: neither the width nor depth of any lot can be more than twice the other; no more than a 2:1 ratio. The exact purpose of this policy is uncertain, but is possibly is due to the Board of County Commissioners not wanting to increase the waterfront density by having a lot of skinny lots that met other dimensional requirements, causing a very dense pattern along the water violating some of the other policies.

3. Only within the Urban Growth Boundary is there a minimum lot dimension of 60 feet. In other words no lot can have a side that is less than 60 feet.

The matrixes are compared before and after the boundary line adjustment. Provided the score is not worse after the boundary line adjustment than beforehand, the boundary line adjustment is approved. This enables nonconforming properties to still make boundary line adjustments, provided the overall pattern is not made worse by the boundary line adjustment. If it meets all of the tests, the Staff provide a letter stating that the boundary line adjustment can be made and the boundary line adjustment has not affected the buildability of the lots.

The question to the Planning Commission is whether that should be described in the code, perhaps simple wording stating that they either must or should come to the
Department of Community Development for review if doing a boundary line adjustment. The Department of Community Development does not actually want to write a full boundary line adjustment ordinance, acknowledging that it is a difficult area for all parties to agree on. There does, however, need to be a consistent process.

The third area receiving feedback was on the public gun-range rule, Item 34. There was a consensus that the required 500 feet to the nearest house from the edge of the property was too small. It was recommended that 1500 feet would be more applicable based on the non-shooting ordinance that has a 1500 foot distance from houses. That’s based on the ballistics of hunting rifles and such, as well as noise impact. Feedback was also received regarding current code regarding no shooting areas and gun ranges. There is a rule stating established no-shooting areas for hunting purposes cannot permit a gun range. However, the gun range by definition requires going through a conditional use permitting process to ensure it is a safe and permitted place to shoot guns. That is different from the issue of no shooting areas in general along the county relating to individuals going out with guns and hunting; that goal is to ensure that these activities be done where they are safe. Staff is therefore requesting that the wording prohibiting gun ranges from no-shooting areas be removed or have the language modified accordingly.

Kelly Robinson stated that was all of the feedback received thus far and asked if there were any questions or if the Planning Commission was prepared to cover each item.

John Ahl referred to boundary line adjustment rules. One of the ideas in the county is that of clustered developments in rural areas. He wanted to know if this set of codifications should be compared to the objectives and processes relating to clustering in rural areas. Kelly clarified that the way the clustering was handled in the code now, and the way it is anticipated in the future, is performance-based. It automatically exempts the lots from the dimensional lot requirement tests in the boundary line adjustment.

John Ahl had a second concern that related to gun ranges in Kitsap County. There is a body of Federal Law regarding lead in the environment, gun ranges and the types of features they must incorporate for recovery of lead. He wanted to know if that was addressed in any of the Kitsap County requirements. Kelly stated that it was not at this time. It had been looked at on various occasions when they were looking at no-shooting ordinances. There was testimony at public hearings, particularly relating to duck hunting in lake areas potentially creating accumulations of lead shot on the bottoms of these lakes. Specific details as to whether that is the case are not known, but it has never found its way into any of the County rules or regulations.

John Ahl stressed that the Federal Government had spent considerable funds sanitizing all military gun ranges to ensure lead doesn’t touch the ground. Kelly agreed it would be a good thing to consider when doing a conditional use permit for a range, to actually include a condition that related to meeting some kind of standard. With regard to lead accumulation on lake bottoms, no-shooting rules prohibit shooting within 500 yards of a lake or 1500 feet of any lake in the county, thereby eliminating that concern.
Kelly Robinson then proceeded to cover each item to determine if there was a general consensus with the Planning Commission or if further discussion was required.

**CONSENSUS – DEVELOPMENT CODE AMENDMENTS**

**Item 1:** Add authority to apply planned policies and project review.

**Item 3:** Restore request for consideration to the Hearings Examiner procedure.

**Item 5:** Definition: Private Recreational Facilities. There was only a minor correction to background wording indicating that “make” should be plural.

**Item 9:** Definition: Residential Hotel

**Item 10:** Definition: Home Daycare

**Item 11:** Definition Child Daycare Centers.

**Item 12:** Add Fire Stations as allowed uses outside the Urban Growth Area, which just involves adding Fire Stations to the definition of Public Facilities.

**Item 15:** Require shared monument signs – Mike Gustavson noted that in the fourth line down the word “enforce” should be replaced with “define” since code language can’t enforce it but it can define it. This revision is part of the background language; no other revisions were made. William Matchett noted that this would likely be controversial with commercial interests, although no feedback had been received yet.

**Item 18:** Add conditionally exempt contractor signs with a 30-day allowance.

**Item 19:** Add neon lighting to sign measurements.

**Item 20:** Make County school playground square footage requirements the same as the State. There were typographical errors noted that needed correction and the handout had reversed the county and state requirements. This was addressed in the previous minutes but needed to be corrected in Kelly Robinson’s documentation.

**Item 21:** Reduce the number of heavy vehicles in a contractor storage yard from 10 to 7. Although conflicting opinions were anticipated at the public hearing, the Planning Commission was in agreement.

**Item 22:** Revise the blanket outside storage prohibition; adding language for applicable exceptions.

**Item 24:** Increase the rules for moderate home businesses to what they had been in an earlier code; capping the gross floor area of the moderate home business to no more than 50% of the gross floor area of the house.
Item 27: Rules for espresso stands. Mike Gustavson noted background grammar, in the fourth line down “comfortable” should be “comfortably.” Kelly Robinson noted that the big distinction was that there were some pretty tight objective standards for when a site plan review or a minor site plan would be required, or when the applicants would just be required to get a building permit.

Item 30: Move gun ranges from Title 10 to Title 17.

Item 31: Kitsap County code does not define how to do a plat amendment and the County has been required to use State Law. State Law has here been simplified and incorporated into County Code.

DISCUSSION – DEVELOPMENT CODE AMENDMENTS

Item 2: Departmental rules were discussed with language pending. Mike Gustavson felt this should always come before the Planning Commission as they were more focused on land use than the Board of County Commissioners. Such items are more the focus of the Planning Commission. Monty Mahan stated his agreement. Kelly Robinson clarified that the wording would mandate that it go before the Planning Commission. Mike Gustavson felt that if the Planning Commission was added to the process, 90 days might be more appropriate.

Item 4: Add third party review authority to Title 17, requiring an independent third party review that would be paid by the applicant. Kelly Robinson clarified that it pertained to those instances when an application was presented with an expert’s opinion with one point of view, while an opponent to the application provided an expert’s opinion with a different point of view. The Hearings Examiner is not an expert and has requested there be an independent expert for review of conflicting expert opinions, with the bill sent to the applicant. It is not anticipated that this would occur very often, but probably 2-3 times a year. William Matchett stated that it was a good idea. Mike Gustavson expressed concern with the Department of Community Development choosing the independent expert with the applicant being required to pay. He noted the philosophy of “you hire, you pay.” Otherwise, he felt there would be no budgetary constraints with too much room for abuse. If it affected the County’s budget, it would be more tightly controlled. Mike Gustavson requested that the last item regarding the applicant being required to make payment be deleted. Monty Mahan recommended that the County could provide an approved list of reviewers and the applicant and County agree which one to use. Mike Gustavson agreed that if there was an agreement as to who would be doing the job, paying for it would be easier on the applicant. John Ahl stated that one approach would be that whoever was right didn’t have to pay, although it was noted that this was not necessarily an easy distinction to make. Monty Mahan recommended they set up a list and the cost be split between the County and the Applicant. Mike Gustavson stressed that he still felt the County should pay. John Taylor asked how a list could be developed when we didn’t know what the issue was beforehand. Kelly Robinson stated they would put a call for proposals to be put on the list; a pretty common procedure for other types of bidding purposes. The Staff would then have a list of qualified experts in a variety of areas with an annual review of the list. Kelly clarified that the purpose of having the applicant pay for the
third party review is consistent with the standard principal within the County, with identified costs of development-permitting being paid by the people who benefit from it.

Mark Grimm, Assistant Director, stated that there were comparable codes set up in a similar manner (i.e. Critical Ordinance). There is an approved list and the applicant is billed. The Prosecutor’s office had previously expressed concern that if the applicant weren’t billed, it could be determined as public funds being used for individual land use. The same thing is true under building codes. When inspecting a building, the title search, etc are billed back to the owner. If they don’t pay, the County liens the property. There are legal problems if the county assumes too much for applicants’ expenses.

Mike Gustavson stated that he had no further problems with this item provided the applicant be allowed to choose from a list with no less than three choices for the third party review.

Items 6/7: Definition: Guest House/Guest Quarters. The Health District was an integral reviewer in assisting with these guidelines. The Health District has a set of rules and possibly a definition, although it’s uncertain if it’s been codified. A Guest House must be distinguished for County purposes from an accessory dwelling unit, which is a rentable, second house on the property. A guest house is not classified as a dwelling unit because, essentially, it does not have a kitchen. The same rule applies to Guest Quarters. In the case of Guest Quarters, they are inside the building and have the additional requirement that they be accessible from the primary dwelling (in addition to not having a kitchen), although they can also have an outside entrance. Otherwise the building code states they are a duplex and there are completely different rules that apply. William Matchett concurred with having these definitions available.

John Ahl requested clarification on how these definitions relate to accessory dwelling units and accessory dwelling ordinance. Kelly Robinson stated that the relation was and the accessory dwelling unit and accessory living quarters, both of which are rentable houses with kitchens, require permits under the new code. When defined and put in the new code. The new Zoning Code distinguishes accessory dwelling unit from a Guest House or from Guest Quarters, which they don’t want to regulate. A building permit would still be required. Setback requirements of the zone would still need to be met, but there is no special permission required. Accessory dwelling units are more serious. Outside the Urban Growth Area a conditional use permit is required and involves the Hearing Examiner. There are cases when people state they are setting up a guest house when their intention is to install a kitchen. The County wants to be very clear on this and provide clear instruction to applicants when it appears they intend to put in an accessory dwelling unit rather than a Guest House. This will assist with Code Enforcement and overall clarification for the Planning Department and applicants. Mike Gustavson recommended that the wording “can not” be changed to “shall not” for consistency.; same recommendation on the next page. Additionally, he noted that on Page 9, the last word “only” is a poor choice and should be deleted. It brings to mind a fire egress and should be removed. Kelly Robinson agreed to those wording changes, with “Guest Quarters must have access from the primary residence.” Mike Gustavson
requested clarification regarding enforcement of the policy with regard to renting. Kelly Robinson clarified that, with regard to enforcement, this was not rental-related.

Item 8: Definition: Rural Inn. Kelly Robinson noted that there are many preexisting rural inns; some of which started as bed and breakfasts but expanded their usage to include offering dinner, long-term stays or are no longer owner-occupied. The County would like to recognize these changes and define how to proceed from there. Tom Nevins, Acting Chair, stated that the “not in my backyard” situation would apply. Would the proposed definition allow a person to open up a commercial establishment with the subsequent weddings, celebrations, and such. Kelly Robinson noted that had not been defined to-date. The first consideration would be establishing a minimum lot-size requirement to prevent them from being built in conventional subdivisions, although they already preexist in strange places and do have neighbors. The question was posed as to whether it would require a conditional use permit, with Kelly noting that it had not developed to that point, but that was the intent. Mike Gustavson stated that setbacks should be sufficient; minimum lot-sizes should not be necessary. William Matchett stated that if they require a conditional use permit, these issues will be addressed in the Public Hearing process. John Ahl stated this was an older item and that it has now reached the point where a definition is needed for this type of use. Tom Nevins, Acting Chair, expressed concern with the unintended consequences after the fact. Kelly Robinson indicated that would also be addressed through the rural use table, as a conditional use, with the potential for a footnote stating “only in accordance with” special conditions that are written elsewhere with other rules added. The Planning Commission was asked if there were other restrictions they wanted to include, other than the definition and that it is allowed as a conditional use permit in the rural zones.

Deborah Flynn asked if the purpose of adding a definition was for something that already existed but didn’t have rules that applied to it and if they were intended to add rules after the fact. Kelly Robinson stated that the intent was that there should be rules before they are put in the use-table, those should be defined and agreed to. If the Planning Commission had no additions and did not dispute the current documentation, it would simply be defined and added to the use table as a conditional use in those zones. There would be no special rules unless recommended by the Planning Commission. Deborah Flynn clarified that development would not be prohibited; it would just require a conditional use permit with any requested extra rules, other those already included with conditional use permits or site-plan reviews. If the Planning Commission doesn’t recommend rules, and they aren’t needed in order to consider applications, there would still be a preapplication meeting, then the applicant would be invited to submit an application for a Conditional Use Permit for a Rural Inn. There would be a Public Hearing, notifying all neighbors within 400 feet, a Staff report with any conditional recommendations, etc. The Rural Inn is one of only a few uses to have special rules; most have general rules that apply. The final determination was that Kelly Robinson would add this to the rural use table and show it as a conditional use in all the Rural Residential Zones but there would not be any special rules; they would just use their regular rules to review it.
Item 13: Setback revisions for assembly areas in residential areas outside the Urban Growth Area shall be required to maintain front and side yard setbacks that are 50% larger than the prescribed setbacks normally required in the applicable zone. Typically, rural setbacks are 50 feet from the front and 20 feet from the sides; if this is an assembly-type use, the setbacks would be increased to 75 feet for the front and 30 feet for the side. The reason for this revision is that assembly-related facilities have a larger impact. The driving policy is maintaining the rural character, which is part of the Comprehensive Plan. Mike Gustavson objected across the board to this policy because, with population increases, rural areas can become more urban, but the County will have taken property out of service preventing its development. He also requested further clarification as to what type of impact this increased setback would cause. Kelly Robinson stated it was primarily for screening purposes, preventing large assembly areas from being as visible to residential homes based on plantings, walls, etc. Home setbacks were to preserve the landscape along roadways, with Banner Road being an example of how this was applied. Assembly areas would require even more to avoid excessive visibility. William Matchett stated that it appeared the main effect would be that assembly uses could not be built on small lots. This was confirmed as one area of impact. Using places of worship as an example, the usual request for large parking areas would be constrained by the lot size and setbacks. Additionally, larger setbacks would help address the increased impervious surface and greater storm water retention requirements. Mike Gustavson noted that not all property is level in the County; it might be appropriate for the building to be placed on the uphill side so they have a storm water retention area available. He also pointed out that the property could be adjacent to forestry property where there is a 100 foot setback, which would now be increased to 150 feet; taking out an unreasonable amount of property across the board. Mike Gustavson proposed that there be a specified setback requirement, rather than being based on a percentage of existing requirements. Kelly Robinson asked if there was a number that the Planning Commission would like to recommend. Deborah Flynn received verification that these assembly uses were allowed on residential lots. It was also noted that there was no concern if they were built inside the Urban Growth Boundary. Deborah Flynn stated her agreement that, if an assembly use were built on a residential lot, it should have more restrictions than residential housing. John Taylor asked if this item was developed to address a specific problem. Kelly Robinson noted that it was the Planners’ experience that assembly uses, such as places of worship, weren’t setback enough, based on their experience and input they had received. Deborah Flynn received clarification that assembly uses required a conditional use permit. Kelly offered the alternative that it could be indicated that “at the Director’s discretion setbacks for assembly uses may be increased up to 50% above the setbacks in the ordinary underlying zone.” That would allow the Staff to take into account topography and other issues. Mike Gustavson stated that in most cases the increase of 50% would only result in a 10 foot difference and he was unclear as to how that small a distance would have any significant impact. It was agreed that leaving it at the Director’s discretion with the 50% cap was the most acceptable option. William Matchett noted that in the past when “at the discretion” was used in wording, there has been a lot of public upset at not having specific guidelines. Kelly Robinson indicated that it was anticipated that the 50% cap would help to address that situation. There would also have to be a finding, going to the Hearings Examiner and explaining why the County was requiring increased setbacks for a particular assembly use. Kelly also
stated that 10 feet can make a significant difference in the screening capabilities of natural vegetation, in addition to addressing the storm water situation. It was confirmed that the wording “at the discretion” would be applied. It was also noted that any wording referring to “churches” be revised to “places of worship.”

Item 14: Preplanning, exempt building permits and exempt established lots in some existing plats with specific language not provided at this time. Mike Gustavson noted that the background wording says “existing rules of developers …on half acre vacant lots in existing subdivisions inside the Urban Growth Area would violate the Growth Management Act goal of preserving existing residential neighborhoods.” He believes this is exactly what you get with the Growth Management Act, more intense development inside a defined area, calling for higher densities. He requested revision to the wording to clarify the apparent conflict. Kelly Robinson agreed and noted that they had not encountered a lot of problems. This related more to individuals’ concerns when areas are rezoned for higher density, that their neighborhood could be ruined by multiplexes and that type of development. Kelly Robinson proposed addressing it as two separate sub-items.

(a) Every building permit is currently subject to a preplanning requirement. It was agreed that building permits should be exempt from preplanning. William Matchett noted there was a duplication in the word “application” which needed correction.

(b) With regard to protecting established lots in some existing plats. Staff would need to go through a process to show the Planning Commission where this might be applicable. It might be considered as a side requirement, but would need further evaluation for that determination. Perhaps there could be a time period that the neighborhood had been established before it was deemed “protected.” That could be left for later iteration. Mike Gustavson used Portland as an example where this type of problem was common with rezoning resulting in 20-plex units next to cottages. Tom Nevins, Acting Chair, indicated that type of change is always upon us as part of growth. He stated that, with the Urban Growth Area, it’s ultimately inevitable in the higher density areas.

It was agreed that Item A would remain with the noted correction and Item B. in regard to established lots and some existing plats, would be left off until a later date.

Item 16: stump-grinding. Kelly Robinson stated that it should be a specified use which wasn’t defined at this time with Staff recommending it be allowed with site plan review in both business park and industrial zones. Mike Gustavson expressed some confusion as it related to stump-grinding that occurred on location. Kelly Robinson stated that it was more a matter of scale and did not feel additional wording was necessary. Even in the case of smaller stump-grinding operations, they may need to leave the equipment at the property for a period of time, but should also be allowed to have a permanent installation location. Staff would like to identify the situation where stump-grinders are at a specified site with the materials brought to that location and allow it in the code in any industrial zone with a site-plan review. Mike Gustavson asked that there be a better definition of stump-grinding since his interpretation of the existing wording is
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that, as a property owner, he is prohibited from having stumps ground on his property. Kelly Robinson stated that he would provide a definition to the Hearing Draft. With those changes there were no objections to allowing that use in industrial zones.

Item 17: Clarifies the double front yard setback rule. This relates to properties that are on corners. Mike Gustavson noted that these guidelines were in conflict with McCormick Woods. Kelly Robinson clarified that McCormick Woods has its own setbacks and this item was to address setbacks for corner lots in the Urban Growth Area where there could be two front yards. This would clarify that the front yard setback would be based on the side with access to the street. There would only be one front yard in rural areas. Mike Gustavson asked if this applied only to rural areas and was told yes. The wording does not specify that it’s only for rural, but a 20 foot minimum-setback is already established in urban areas so this would not apply to them.

Mike Gustavson stated that, if McCormick had an exception to that guideline, perhaps the wording should specify “except for exempted areas.” Kelly Robinson noted the exception for McCormick because it was part of the subdivision process, planned unit development and the whole process that went with that. The planned unit development process under which McCormick Woods was established, allowed for adjustments in setbacks. William Matchett stated that the exception appeared to pertain to sub area plans with Mike Gustavson stating “except where subarea plans allow” or words to that affect. Existing wording without noting exceptions could raise questions as to why the requirement isn’t applied universally. Kelly Robinson noted there were other reasons for different setback requirements other than sub area plans. If it were a zero lot line adjustment under performance based development, there wouldn’t been any setbacks. Kelly Robinson proposed wording “except where subarea plans allow.” William Matchett stated that if they did that in this section, they would have to do that in all areas where the sub area plan differs from standard requirements. It has been noted that exceptions may apply but those are to be addressed at a later date. Mike Gustavson recommended having an exemption for the category referred to as sub area plan, indicating that they are sort of a generic exception.

Kamuron Gurol, Director, noted that the Department of Community Development had to administer the entire Zoning Code, building code, etc. and that it appeared what was being recommended was that there be a general exemption to cover sub area plans throughout the code and regulations. A general exemption would apply no matter where the exemptions appear, whether relating to setbacks, height, etc. The difficulty in what Mike Gustavson is proposing is that the Department of Community Development would have to identify every instance in the code where there might be an exemption and list it in all those areas throughout the code. A generalized exemption should take care of that need. Kelly Robinson was asked to review the code and find where there was a general exemption within the code to ensure the County is covered in that area. Mike Gustavson continued to express his concern that the average applicant would still be confused. Kamuron Gurol agreed and stated that Department of Community Development was trying to strike a balance between a code providing the necessary information and one that become overwhelming by listing every instance where an exception might apply. He stated they would prefer a generalized exemption
that has gone through the public process. It was agreed that the Staff should ensure the wording was clarified to the extent possible and locate or prepare a general exemption.

Eric Toews stated that he was unaware of any such specific exemption either within the ULID #6 Sub-Area Plan proposed final version or within the proposed implementing regulations. The setbacks applicable for the urban low zone which occur within the sub area are the same as currently found within the code. The setbacks within the urban medium are also identical - the 10 foot front yard setback. What is new is the application of a new land use and zoning designation that is proposed for urban clustered residential areas, which would have a 10 foot front yard setback. That is an entirely new zoning designation that is proposed. Kelly Robinson stated further that any planned unit developments would also have different setbacks.

10:50 – 10:55 A.M.

Break Was Called.

Item 23: Regarding parking at skating rinks and an error in the gross floor ratio, Mike Gustavson felt that correction to 200 square feet per parking space wasn’t enough. He stated that although the 20 feet may have initially been a typographical error, it would provide more sufficient parking. Kelly Robinson noted that the 200 square feet is the standard from all other codes in the region. He asked if the Planning Commission had another standard they would recommend. Mike Gustavson stressed that using the same standard for normal business as for skating rinks or dance halls would not work, since businesses had people come and go; while skating rinks and dance halls had large numbers staying at the same time. Kelly Robinson stated he would revisit the matter and bring it back for further review once he had more information and/or statistics to provide.

Item 25: Poulsbo Development Codes. Mike Gustavson stated that rather than selecting fixed dates with regard to City of Poulsbo ordinances, he recommends wording to the effect of “the zoning ordinance currently in effect.” Otherwise the County could always be out of step with Poulsbo. Kelly Robinson stated that Staff was in agreement, but were advised by the County’s attorneys that the Interlocal Agreement did not allow for that. The Interlocal Agreement requires the County “consider” changes to the City of Poulsbo’s amendments to the Zoning Code before they are accepted by the County. It was agreed that this creates a lot of problems with regard to the workability of the Interlocal Agreement but was required based on the wording of the Agreement. Mike Gustavson suggested that the matter be addressed with the City of Poulsbo Planning Commission, with a request that the Interlocal Agreement be revised to make it more workable going forward. Kelly Robinson stated that he did not have the authority to do that. The Interlocal Agreement was between the Board of County Commissioners and the Poulsbo City Council.

Item 26: Visual Impact Criteria for Cell Towers. This is unfinished business relating to the Wireless Chapter of the code which, up until now, required utilization of SEPA determinations with regard to the extent of visual impact imposed by a cell tower. The County is now proposing specific visual impact criteria which would be used as part of
balloon tests, simulations and so on, to decide whether or not the impact was more than moderate. It is going to be a subjective judgment, regardless, but these criteria would allow for a rating system in which several parties, some of whom would be Planners but all of whom would be trained, would actually complete an impact analysis at different distances from the proposed tower: the immediate foreground, foreground, middle ground and background. These analyses would be used to determine whether or not the tower was impacting a critical visual panorama. The collective results would be reviewed with the Planner who would use the information to determine if more than a moderate visual impact resulted. If it did, the tower would have to be mitigated, changed in some way such as moving, lowering, recoloring, etc. John Ahl was advised that this applied only to new towers. William Matchett received verification that it would always go to a Public Hearing. Kelly Robinson clarified that the only difference would be that the County would have more data to present at the Public Hearing.

John Ahl noted that the County seemed to focus a lot on cell towers and their visibility; not water towers, radio towers, power lines or anything else that clutters the whole visual environment. He requested clarification as to why cell towers were isolated for such a detailed review. Kelly Robinson clarified that there is a comparable review done for radio towers. Water towers also have to be reviewed as a public facility, although some are viewed as an exemption in the building code in regard to height limitations. Additionally, water towers typically can only be built at a particular location due to pressure zone requirements, so visibility often is not the primary concern. Kelly Robinson did agree, however, that cell towers were addressed to a greater extent because of the number and they were controversial with so much of the public. William Matchett pointed out that competing interests were also an issue with competitive companies wanting to put the towers in the same area. Kelly Robinson agreed and noted that some cell antennas were placed on water towers, which sort of piggy-backed with the water tower requirements. The County had opted for this chapter quite some time ago and it has remained unfinished business. Staff has now assured the Board of County Commissioners that it would be addressed/resolved. John Ahl noted that, with regard to visual pollution, there are numerous other items polluting the panorama before he even notices a cell tower. Mike Gustavson stated that water towers were painted dark green to lessen visibility and the same rule could be applied here. William Matchett stated that they could move on with this and should anticipate a lot of input at the Public Hearing.

**Item 28:** School Portables. This is an attempt to make the rules more specific. Current new schools are required to show portable units on the site plan. This clarifies how to address pre-existing situations. The site plan is a very simple 10-day administrative process that can be applied as it is where there is no change in use, only an expansion of use. William Matchett received confirmation that the intent was to make it easier for schools to meet the requirements and that the school districts would be notified of this proposed change.

**Item 29:** Clarifies the distinction between nonconforming uses and structures. This has been amended many times and these revisions are intended for clarification. The overall intent was not being changed. Language was being moved from nonconforming land use to nonconforming structures. Items C and D were also being removed as they
had deadlines that had expired. It was noted that the lettering needed to be corrected to reflect removal of those items. Tom Nevins, Acting Chair, requested clarification on Item D at the bottom of the page with regard to the term “building line.” He was advised that the building line is the outside wall of the structure and is a term already utilized in the Building Code. Nevins verified that a nonconforming structure can be expanded upward, provided it does not exceed the building lines based on a grandfathered setbacks. William Matchett noted that the wording could be clearer. Nevins also noted that the term “nonconforming use” had negative connotations and asked whether different wording should be considered with the recommendations made by various parties for exceptional use, permitted use or specially permitted use. Kamuron Gurol, Director, stated that the terminology was standard, particularly in the building community and is cross jurisdictional. Changing the terminology would result in confusion without any real benefit. He also stated that the period for abandonment determination was rather liberal. Kelly Robinson clarified that the period was one year for destruction or discontinued us of a public structure. Mike Gustavson stated that it indicated six months in 2-0-B and that the six month period might not be applicable with regard to seasonal businesses and such. Kamuron Gurol, Director, stated that the code was developed to address older, closed stores in a residential area. Mike Gustavson felt that it could be abused. Kamuron Gurol, Director, agreed that there could be situations where it might come up in the case of seasonal use situations, but he did not believe the department would pursue that type of situation. Kelly Robinson clarified that the six-month rule applies only to a nonconforming use not in a structure, such as storing lumber on property or other related uses outside a structure. An actual use within a structure provides for one full year.

**Item 32: Boundary Line Adjustment rules.** It needs to be decided by the Planning Commission whether or not to codify the rules. State law covers this situation, so people will continue to do boundary line adjustments. Some will voluntarily come to the Department of Community Development and have the rules applied. For those who don’t, they may encounter problems down the road if they are applying for a building permit and find that the boundary line adjustment rules were violated and a permit cannot be issued.

William Matchett stressed that the real issue was how to let the people know of the rules. Did they need to be in the Code for people to be aware of them? Deborah Flynn asked if there was a particular situation that led to the need for these rules. Kelly Robinson clarified that there were instances when boundary line adjustments were made without county review and individuals would later come in for building permits, only to find they had an unbuildable lot. They often state they were advised by a Surveyor that they complied with the State law and were not required to go through a county process. The Department of Community Development is requesting guidance as to whether the surveyor should be required to bring boundary line adjustments to the County. Other counties have fairly elaborate, codified rules regarding boundary line adjustments, consistent with state law, but Kitsap County does not. William Matchett received verification that the rules already exist, with a form to be filled out. There are no costs; it simply ensures the boundary line adjustment does not impact future buildability of the property. Mike Gustavson stated concern that this could become too complex. Based on existing requirements, people who live on the water with a road
separating the home from the beachfront that they also own would be prohibited from  
performing a boundary line adjustment. He noted that purchasing property should fall  
into the “Buyer Beware” category and cannot necessarily have every aspect covered by  
the County. Deborah Flynn stated that, although that might be the case, the Planning  
Commission gets the resultant feedback that the County is being heavy handed by not  
allowing building, etc. Tom Nevins, Acting Chair, stated that Monty Mahan had had to  
excuse himself at break time but that he had requested that Tom, on his behalf, request  
that any proposed rules or codes be passed to the County Surveyor for review and  
comment to the Planning Commission before adoption.

Kelly Robinson noted that Jim Bernard had reviewed the rules and was in agreement  
with them. He concurs with the way the County is currently reviewing boundary line  
adjustments presently. He is uncertain as to whether this should be codified, as it will  
bring forth a number of special interest groups (surveyors, title companies, lenders).  
Mike Gustavson stressed that there is no way the County can protect the public in every  
instance and that personal responsibility should come into play if a person purchases  
property without ensuring it can be utilized as they intend.

Kelly Robinson asked the Planning Commission to provide input as to whether this  
matter should be posed to the public. There is going to be an ordinance, either making  
a rule, not making a rule or changing it. Mike Gustavson stated that he felt it should be  
deleted. Kelly Robinson stated that the Planning Commission would need to respond  
to the Board of County Commissioners, but can recommend that things are fine the way  
they are – indicating that the Planning Commission understands current procedures  
and believe they are fine without being codified. John Ahl stated that he did not want  
to be included in the “consensus” that the item be deleted. Deborah Flynn further  
stated that when this issue was raised in the past, the surveys and related parties were  
against codification because they did not want the additional responsibility, which led  
to the matter being dropped.

Kamuron Gurol, Director, stated that codification might not be necessary; rather it  
might be a good candidate for the departmental rule making process. Staff would  
involve state builders, propose a rule, get their input and make changes more  
expeditiously if it is not codified. If an area isn’t working as well as it could, it could be  
amended relatively simply. It is important that rules be applied consistently, but there  
are enough variations with this situation that he preferred it started as a rule with clear  
criteria. He also acknowledged Mr. Gustavson’s position about “buyer beware” and this  
rule should not be written in an attempt to address all potential circumstances. What  
should be addressed is what the public interests are: avoiding landlocked pieces of  
property, providing access, and those types of concerns. Part of the problem with a full  
hands off approach is that the Department of Community Development ends up  
receiving the blame. If this can be prevented by having these rules in place, they should  
do so. Even with good efforts on the landowner’s part, sometimes there are problems  
that come up. Whatever the County can do to try to minimize that in an expeditious  
fashion to protect the public interest would make sense.

William Matchett agrees rules are needed and should be available to the public; he was  
just undecided as to whether it should be codified. Once the rules were in place for a
period of time and it was determined that they were effective, they could be codified at a later date. Mike Gustavson preferred that this be addressed with next year’s issues.

Kamuron Gurol, Director stated that at this point the County was looking for direction from the Planning Commission as to whether they wanted to go down the ordinance/codification pathway or perhaps establish these as rules first. Rules might be a good pathway and, if the Planning Commission were to authorize the Department of Community Development to have this internal ruling first, it could be viewed as an example which could come back for further analysis. Mike Gustavson stated that he agreed with that option and felt it should not be brought to the public hearing at this point. Deborah Flynn clarified that this would go back to the Board of County Commissioners with the Planning Commission’s recommendation that it be a candidate for the administrative rule making process. Kelly Robinson agreed and stated that this would serve as a good test for rule making process.

Item 33: Accessory Dwelling Units. This is a dramatic change in existing rules that state accessory dwelling units are allowed in all rural zones with a conditional use permit with no existing requirement for a conforming or nonconforming lot. This would now require a minimum of 5 acres before an application would be accepted for an accessory dwelling unit and there would be dimensional requirements (skinny lot rule). John Ahl noted that it was his understanding the accessory dwelling unit was established initially to be smaller than the existing home and for a relative to live in; not defined by lot size. He expressed concern that the smaller existing house led to a larger home addition, resulting in the smaller home becoming the accessory dwelling unit and the larger home being the primary residence, which was not how he interpreted the initial intent of accessory dwelling units. Additionally, he questioned how it could be enforced who was living in the accessory dwelling unit and whether or not it was being used as a rental. John Ahl stated his inclination was to go along with the revisions but that the entire accessory dwelling unit situation needed to be readdressed in rural areas. William Matchett received verification that it did not apply to urban areas.

Kelly Robinson provided clarification that the property can start with a small existing house with a larger home added through the accessory dwelling unit process. The typical pattern is that someone moves onto a piece of property with a starter home and begins a concurrent process of permitting the existing home as the accessory dwelling unit and the newer home as a primary residence. Although this might be viewed as an abuse, as stated by John Ahl, it would be simple to prohibit that if it were deemed necessary by the Planning Commission. Statistically there are not a lot of accessory dwelling units; they account for about 10% of the total permitting load each year. Regarding who can live in the accessory dwelling unit, the rule has been interpreted to indicate it doesn’t make any difference which unit is occupied by the property owner. Additionally, there are no prohibitions in the code regarding the occupancy or rentability of the accessory dwelling unit as a long-term living structure. It is intended to be affordable housing without changing the character of the neighborhood. The character is preserved by the requirement that one of the units be owner occupied. Sometimes the accessory dwelling unit is used to assist the property owner with paying their taxes and other property related expenses. Sometimes it is intended for a
relative’s use. More often than not such units are presented as affordable rental units. If that was not the intent, then those are things that can be addressed as well.

Mike Gustavson stated that he had serious concerns with the skinny lot application and that it limited use of properties in an arbitrary manner. This 2:1 ratio would specifically impact most waterfront properties. In addition, many of the existing properties in Kitsap County do not meet the 2:1 ratio requirement. If you looked at a plat maps you would see that it is an inappropriate requirement. He feels that an attorney would come after that stipulation as being arbitrary and capricious. Kelly Robinson asked if it would be more acceptable if the requirement only stipulate that it be conforming by size without any other dimensional requirements.

Deborah Flynn stated that she felt this was needed. By adding accessory dwelling units on smaller lots in the rural area, they are going against what is being attempted through the Growth Management Act; maintaining rural character. Additionally, accessory dwelling units on smaller lots increase impervious surfaces. Kelly Robinson acknowledged that it would be less likely to interrupt the rural character if you had five or more acres. Deborah Flynn agreed, but felt that the 2:1 ratio was not necessary and that the size requirement was sufficient.

Mike Gustavson stressed that in terms of numbers the accessory dwelling units would not be a huge impact. He felt that the requirements and fees already involved were prohibitive and ensured that it would not have a large impact on overall development. It was an ideal situation where individuals who have owned their property for long periods find themselves in a reduced income situation (i.e. retirement). This would enable them to have a renter to compensate for some of the property taxes and other costs. Deborah Flynn stressed that there were other areas of concern, such as sensitive watersheds or wetlands with the addition of more impervious surfaces having an negative impact. Mike Gustavson stressed that he still felt it was heavy handed given the numbers involved.

Tom Nevins, Acting Chair, noted that accessory dwelling units brought up a lot of emotional issues. With regard to requiring rental income to pay taxes, he felt that had been addressed in other areas. The concept of trying to keep rural areas rural, the zoning decision has been made and this item tends to keep the County heading in that direction. There is always the issue of it being private property, but there has already been a decision made as to acreage densities for various areas. William Matchett noted that it could be used to double densities in areas where density had already been established. Mike Gustavson continued to state that the impact was minimal. In theory he acknowledge that it could become a problem, but actual instances where it was a problem were rare and this should not be dictated by the County to this extent. Kelly Robinson asked if there was a consensus that the wording should limit accessory dwelling units only by the lot area, not the length and width ratio.

**Item 34:** Gun Ranges. This would move the definition for gun ranges to a more appropriate area and allow them as conditional uses in all zones with a footnote referencing the section that would specify the minimum criteria. The minimum site size would be 40 acres, the range itself would occupy no more than 15% of the total site
with the balance to be native vegetation. No application would be accepted for any site where there was an occupied residence closer than 1500 feet from the boundary of the site on the date of the completed application.

John Ahl asked if this included enclosed gun ranges. Kelly Robinson stated that it included both enclosed and outside ranges. The primary example that had been discussed previously had both an indoor range and a skeet area. John Ahl requested that there be a distinction regarding the 40-acre requirement as it was not applicable if the range was completely enclosed. Kelly Robinson proposed rewording it to “unless totally enclosed within a building, the minimum site size would be...”. John Ahl agreed, stating there should be a separate set of rules applying to indoor ranges as they did not pose the same type of danger or disruption to surrounding areas as outside ranges.

Item 35: Neighborhood Business Zone. There are four business zones in the County, with this being the lowest one. Presently, no retail sales or automobile related uses are allowed in this zone due to a code amendment removing those businesses in the past based on a controversial situation. It was now being proposed that service stations and car washes, which are considered to be conveniences, commercial uses appropriate to a neighborhood, no longer be prohibited but allowed subject to a conditional use permit.

Mike Gustavson noted a typographical error where “NB” pertained to neighborhood business, when the actual term is Neighborhood Commercial and should be revised to “NC” to comply with the code. He also wanted to know why there was no site plan review like other businesses in related zones. Kelly Robinson stated that Staff did not object to that, but wanted to proceed carefully since they were overturning some major policies. A site plan review would allow, in some cases, that the permit be handled administratively. For these neighborhood commercial sites, most of the neighborhood commercial sites front on other properties, potentially residences. If they bother on a vacant site, a site plan review would go to the Hearings Examiner in any event. It almost becomes a conditional use permit. In any case, Staff has the option to take a site plan review to the Hearings Examiner if it is deemed to need more due process. There wouldn’t be a significant change, but it would allow more opportunities for these areas to be permitted through an administrative process that gave notice to the neighborhood but didn’t have a public hearing. William Matchett stated that there was always a way for the public to get in on a site plan review provided they received notification and that should be sufficient for this purpose. Kelly Robinson stated that it appeared this would be consistent with the rest of the code and he verified that there would always be notice sent to the applicable neighborhood, even if there was no public hearing.

Kelly Robinson stated that a Hearing Draft would be prepared and submitted to the Planning Commission for review as soon as it was available. It would also be posted on the website and addressed further at the public hearing.

Work Study Session—Comprehensive Plan Amendments

Laura Ditmer asked if the Planning Commission would like to continue the process or retire to the Public Hearing on June 3. The Public Hearing is scheduled to start at 6:30 p.m. and the Planning Commission could review the proposed amendments prior to the
Public Hearing. It was confirmed for Tom Nevins, Acting Chair, that they would receive the materials at this meeting in order to have time to review them prior to the Public Hearing.

Laura Ditmer stressed that there were some substantive components to review; a summary of plans for ULID #6, interim growth forest updates directed by the Board of County Commissioners, as well as proposed policy and textual amendments.

Tom Nevins, Acting Chair, noted that if they elected to have a briefing prior to the Public Hearing, it would need to start fairly early. It was agreed that 4:00 p.m. would be an appropriate start time and noted that the entire process would likely last until about 10:00 p.m. Laura Ditmer stated that food and beverages would be provided by the County. The specific location of the continuation would be determined with all parties to be advised, with the Public Hearing scheduled to occur at the fairgrounds.

The audience requested that they also receive copies of the materials being handed out to the Planning Commission.

Laura Ditmer provided additional clarification that the existing documentation, referred to as Part I was the overall policy and “big picture” amendments; Part II would be the site specifics which were being reserved for another work study.

Mike Gustavson asked if there was a Staff Presentation to go along with the handouts and, if so, how long would that take. Laura Ditmer indicated that it would take up to two hours which was the reason for the recommended continuation.

Linda Niebanck requested a specific date as to when a final decision with regard to ULID #6 was going to be made by the Planning Commission. Tom Nevins, Acting Chair, stated that it would be addressed as “Other Business.” He stated that ULID #6 was to be reviewed, including findings of fact, with a decision anticipated for all Sub-Area Plans on June 3. Linda Niebanck stated that she had not interpreted the public notice as indicating a decision and was concerned that a decision had been postponed previously due to a lack of public notification to that effect. Laura Ditmer stated that the wording of the current notice had been reviewed and verified as being sufficient by stating the findings would adopted, which indicated they would be making a decision.

Laura Ditmer stated that they could go over ULID #6 now and then go over anything else at the larger briefing on June 3. John Ahl stated that in the past the Planning Commission would first make their recommendations, after which the Staff would create a Findings of Fact to be voted on by the Planning Commission. He wanted to know what would prevent the Planning Commission from voting on them now, prior to having the Findings of Fact, as it seemed the currently recommended process differed from how it had previously been done, when the Planning Commission voted on items when they deemed it appropriate, with findings of fact being created after all items were voted on. Laura Ditmer agreed and stressed that was essentially what they were doing by addressing ULID #6 today, enabling Staff to move forward and present findings of fact on June 3 for Chair Coppola’s signature. The Planning Commission was asked if they would like to take the time at this meeting to address their
recommendations and findings for ULID #6, in which case that documentation would be provided for the Planning Commission’s review next week. It could then be included in the presentation on June 6 with the Kingston and South Kitsap Industrial Area plans.

John Ahl stated that he thought something should be addressed at this meeting in this regard.

Tom Nevins, Acting Chair, asked if they were just making recommendations on findings of fact or were they adopting changes to the amendments to the Kitsap County Comprehensive Plan Zoning Code and other applicable development regulations relating to ULID #6.

Laura Ditmer stated they were not adopting; they were developing the Planning Commission’s recommendations to the Board of Commissioners for ULID #6, the package that incorporates policy Staff developed over the past year in the Subarea Plan addressing the concept of an Urban Village and how to develop it and its implementation for the Subarea Plan. The Planning Commission was looking at that package, but it had not gone before the Board of County Commissioners for adoption yet.

Tom Nevins, Acting Chair, asked if they were also looking at the proposed amendments to code. Laura Ditmer clarified that they were, and that they were looking at two sections.

William Matchett expressed confusion regarding Kingston, which he thought was completed with voting done on the Planning Commission’s findings and recommendations. Laura Ditmer verified that they had completed those findings and that they were now being brought forward under the Comprehensive Plan amendment process. The State specifies that all projects must be brought in under the annual Comprehensive Plan amendment process. For that reason, all items would be brought to the public hearing for review and then move on to the Board of Commissioners. She stressed that there was no need for additional decision making with regard to Kingston; it was more of a procedural issue required by the State.

William Matchett stated that he knew no decision had been made yet on ULID #6 and yet it seemed to be combined.

Laura Ditmer clarified that they were only reaffirming previous decisions and that everything was being combined for the annual Comprehensive Plan process when it would be presented to the Board of County Commissioners.

Kamuron Gurol, Director asked if the Planning Commission had a set of findings for the proposed Sub-Area Plans and conclusions for each so they could review and formally take action on June 3. Laura Ditmer stated the Planning Commission would have all documentation the following week. Staff were finishing up Kingston. South Kitsap Industrial Area was almost finished and had been reviewed during the last
process, but had not been incorporated at the last meeting. Then ULID #6 would be provided next week as well.

Kamuron Gurol, Director asked if Staff had sufficient direction from the Planning Commission on findings and revisions. Laura Ditmer stated they did in all areas except for ULID #6, which was being requested today. That would enable Staff to bring the entire package together for the June 3 meeting.

John Ahl proposed specific wording to the Planning Commission which he would like to discuss before putting it into a motion:

The Planning Commission recognizes that the Board of County Commissioners adopted the boundaries of the “Preferred Sub-Area Plan alternative” for ULID #6 on April 1, 2002. The Planning Commission, therefore, makes no recommendation as to the size, location or suitability of the adopted area as an Urban Growth Area (UGA). The Planning Commission recommends approval of the proposed development plan, dated April 23, 2003, for the previously adopted sub-area.

The Planning Commission recognizes that the Board of County Commissioners adopted Ordinance No. 269-2002, that memorialized the Board of County Commissioners actions on the draft Sub-Area Plan, on April 22, 2002. The Planning Commission recommends approval of proposed changes to Ordinance No. 269-2002 dated April 22, 2002.

John Ahl stated that he would like to make this a unless there was anything the other Planning Commission members would like to address first.

Mike Gustavson stated he had a concern about the boundaries that were being placed on Urban Growth Areas. It was his opinion that it had some really negative consequences that needed to be discussed at length.

John Ahl noted that was the reason for his specific wording, stating they would not comment on the boundaries of the Urban Growth Area. The Board of County Commissioners had already made that decision and it was no longer before the Planning Commission for recommendations.

Mike Gustavson stated that the decision had not been made; that it was before the Kitsap Regional Coordinating Council right now with another public hearing scheduled (which Tom Nevins, Acting Chair, indicated had been cancelled; reason unspecified).

Laura Ditmer and William Matchett verified that John Ahl was making two potential proposals which could either be kept separate or combined. One was the plan for the Urban Growth Area, the other was regarding the ordinance revisions that were passed by the Board of County Commissioners.
John Ahl noted that the Planning Commission was still sensitive to the fact that their recommendations to the Board of County Commissioners weren’t followed. However, their responsibility was now to make a recommendation to the Board of County Commissioners about what to do inside the Urban Growth Area; not whether or not it should be the Urban Growth Area. Their recommendations were limited by the fact that the Board of County Commissioners had already made a decision in that area. The same situation applied to the ordinance. The Planning Commission was not being asked to recommend whether there should be an ordinance or not; there already is one. The Planning Commission was being asked to make a recommendation to the Board of County Commissioners with respect to certain changes in the wording of that ordinance. He stressed that this had been held up for too long, with no more value added or significant changes made, regardless of continuations. It had reached the time for the Planning Commission to move ahead with it.

Mike Gustavson stated that the Planning Commission should come out much stronger on the boundary issue and go on record indicating that they do not approve of the boundaries. An example would be that if McCormick had not been a preexisting Urban Growth Area and McCormick were to request development with these boundaries, they would be denied. By developing outside the Urban Growth Area they would have to establish their own city governments and there are no allocations in the plan for that. He continued to stress that the boundaries were totally inappropriate and comments are needed.

John Ahl reiterated that boundaries were not one of the items they were directed to consider. Although the Planning Commission had made a recommendation, it was not accepted by the Board of County Commissioners and the Urban Growth Area boundaries had been passed by the Board of County Commissioners. It was no longer up for discussion. Unless the Board of County Commissioners should decide to reverse a decision they made two years ago because of the Planning Commission’s objections, it was a closed matter. The Planning Commission had made a recommendation to the Board of County Commissioners; they looked at it, formed a different opinion and adopted Alternative B.

Mike Gustavson stated that Alternative B only applied to McCormick with John Ahl clarifying that it applied to everything that was now before them.

Laura Ditmer provided, for review, a copy of the Findings of Fact and Recommendations to the Board of County Commissioners last year. Mike Gustavson stated that it reiterated right in the body of the Plan that the Planning Commission was recommending no action both with regard to boundaries and regulations.

John Ahl agreed that was what was recommended, but the Board of County Commissioners had not gone with that recommendation was not going to be able to change it. At this point, by moving it forward they would at least allow it to be adjudicated. At this point, the Courts could not even listen to disputes, as there was no “crime” committed yet with no plan completed. He stressed that they had done everything they could on those documents and the best thing they could do at this point
was to move forward and get it off their plates. Let it move forward for the courts to ultimately decide.

William Matchett stressed that the Planning Commission members were not the elected officials. The elected officials did not take their recommendations, and that was as far as they were involved in that process.

Tom Nevins, Acting Chair, expressed that his main objection to passing the document was that it seemed to put the words in the mouth of the Planning Commission. The Board of County Commissioners, at some point indicate in the ordinance that, as modified, the ordinance is consistent with the goals of the Growth Management Act and resolves the issues and concerns set forth in the Planning Commission’s recommendations. From what he’s hearing at the table, this sense of resolution is not really felt by the Planning Commission. The South Kitsap Sub-Area Plan does what the Board of County Commissioners asked the Staff to do, being better than just a zoning allowance of houses per acre. It does, however, include language that was not necessarily agreeable to the Planning Commission. It would seem instead that, in anticipation of when the Board of County Commissioners goes to court, this was the start to building a case as to whether this action was legal and right. He was, however, amenable to John Ahl’s motion if he would like to make that.

Mike Gustavson asked if there could be further discussion after the motion was made, which was confirmed. Laura Ditmer stated that this meeting was legally noted as a work study and the motion could be reaffirmed on June 3 and move forward from that point.

The Planning Commission agreed that in the records and all of the verdicts that they are going to reaffirm, it needed to be acknowledged what they were recognizing and where they were choosing to remain silent. John Ahl stated that was the reason for the very specific wording of his motion.

John Ahl made the motion that the Planning Commission recognizes that the Board of County Commissioners adopted the boundaries of the “Preferred Sub-Area Plan alternative” for ULID #6 on April 1, 2002. The Planning Commission, Therefore, makes no recommendation as to the size, location or suitability of the adopted area as an Urban Growth Area (UGA). The Planning Commission recommends approval of the proposed development plan, dated April 23, 2003, for the previously adopted Sub-area.

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Mark Flynn seconded the motion.

Tom Nevins, Acting Chair, read back the motion, noting that it had been seconded, and asked if there was any further discussion.
Mike Gustavson stated he would like to add some words to the end of the first paragraph “, with strong reservations on the concept of urban growth boundaries.”

John Ahl stated that was what they had already discussed prior to the motion.

Mike Gustavson felt it was not the same. The way he interpreted the motion was that using the words “boundaries” is not consistent in both portions. The boundary in the first portion of the motion is the definition of McCormick West. Urban Growth Boundaries are a whole different concept. Once a ring is put around the city, that is as far as the city can go and that really was his main problem with the Urban Growth Area.

Deborah Flynn noted that boundaries could be expanded with additional population allocation. Mike Gustavson disagreed and stated that Growth Management was written with the intent that growth would be managed; it would expand in a manageable way. This document limits the concept of expansion. He stressed his feeling that it flew in the face of the entire intent and purpose of the Growth Management Act. Once a boundary is defined, that’s the end of the road. You also get constituencies because that’s where the line is.

John Ahl asked if it would be more acceptable if the word “boundaries” were changed to “area” in the first portion of the motion. Mike Gustavson agreed that would resolve his concern regarding the motion.

Mike Gustavson continued to stress that in the document before them it talks about Urban Growth Boundaries that are implemented which cause major concern because he doesn’t think that complies with the Growth Management Act.

John Ahl noted that was for the courts to decide, it was not up to the Planning Commission at this point.

Mike Gustavson continuing to state they should still be able to make a recommendation.

John Ahl stressed that recommendations could not be made by the Planning Commission on decisions that had been made by the Board of County Commissioners over a year ago.

Deborah Flynn clarified that Mike Gustavson was distinguishing between Urban Growth Area and Urban Growth Boundary. Mr. Gustavson stated that the Urban Growth Area is where the County wanted growth to occur. A hard limit that cannot be expanded is what comes from the concept of Urban Growth Boundary. That limits any further growth of that city. Deborah Flynn noted that was not her interpretation. She interpreted it as an Urban Growth Area that could be expanded in the future if they have a population increase.

Tom Nevins, Acting Chair, feels that as more growth is planned for, the boundaries that are being discussed will be changed and moved. Mike Gustavson stated that is always
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the initial intent, but once the boundary is defined it really doesn’t happen. Bremerton’s growth document was used as an example of hard, limiting boundaries.

William Matchett noted that Bremerton’s boundaries were not immovable and had, in fact, been moved in the past.

Laura Ditmer stated that the Comprehensive Plan adopted the land use map with McCormick as a standalone Urban Growth Area. The 2017 population allocation expands that boundary so it is an Urban Growth Area and those are Urban Growth Lines, based on the adopted Comprehensive Plan.

Mike Gustavson reiterated that a boundary was being placed around McCormick, preventing further expansion and as part of the Port Orchard UGA, which is not what the Planning Commission intended.

Laura Ditmer noted that over time the sub-areas are reviewed and the boundaries can be expanded. They are not set in stone. The County works in 20-year increments, but every five years the County will review the need to expand some Sub-Area Plans, including McCormick. This is not a static process. It does not keep Port Orchard from moving forward. Port Orchard Urban Growth Area boundaries were actually scheduled for review over the next year. The Sub-Area Plan is not inhibiting Port Orchard.

Mike Gustavson stated that there is a philosophy, greenbelt areas being a good example, with the intention that once established they will “never be violated.” That’s the kind of boundary he is referring to. It may be very appropriate to not have those types of areas, but that’s how it relates to park lands and that appears to be the case with the Urban Growth Boundaries.

William Matchett noted that the greenbelt areas referred to were not going to be violated because they are a totally different classification.

John Ahl noted that it would appear from their input that the municipalities have heartily endorsed the Comprehensive Plan. Port Orchard has specifically indicated they support it 100%. Mike Gustavson noted that he did not interpret their input that way.

It was agreed that the word “boundary” would be removed from the final motion and revised to “area.”

Vote: Aye: 6; Nay: 0. (Monty Mahan and John Taylor left before conclusion of the meeting.) Motion carried.

Laura Ditmer clarified that the upcoming plan was to have a formal briefing at 4:00 p.m. on June 3, 2003. She also distributed handouts and notebooks, as previously requested by John Taylor, for the Planning Commission to review in advance. All materials should be included in those handouts so they can be fully briefed prior to the meeting. The remaining findings would be provided the following week and should be added to the notebooks by the Planning Commission members.
A new list of Planning Commission members was distributed, although it did not include John Ahl’s new email address.

Mike Gustavson asked whether the handouts were primarily site specific or not.

Laura Ditmer stated that they are just the applications with everything else. They have site specifics, the applications, the initial draft docket that will be reviewed, textual and policy amendments, map corrections.

Mike Gustavson asked if there were any philosophical matters to address beforehand regarding the materials they would be receiving next week. Laura Ditmer stated those were related to limited areas of rural development in Kitsap County, like George’s Corner, Suquamish and Manchester. Some are commercial; others are more intensive.

John Ahl acknowledged there might be members who wanted to remain after adjournment to get a debrief on the interim growth area, etc. If so, he could provide that. The meeting was adjourned with John Ahl providing a brief report after adjournment; noting for the record that it did not need to be detailed in the Meeting Minutes.

12:20 P.M.

No further discussion being heard, the meeting was adjourned.

DOCUMENTS ADDRESSED AT MEETING

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MINUTES approved this _____________ day of __________________, 2003.

________________________________________
Lary Coppola, Chair

________________________________________
Planning Commission Secretary