
9:00 A.M.
Vice Chair Tom Nevins opened the meeting

Meeting Called to Order – Introductions

9:05 A.M.

Approval of Minutes

October 21, 2004 Minutes

This item was continued in order to make additional edits.

November 4, 2004

A motion was made by John Ahl and seconded by John Taylor that the Planning Commission approve the November 4, 2004 minutes. The vote: aye-5; against-0; abstained 2. Motion carried.

Committee Reports

Michael Gustavson

1. Did not have anything new to report as a result of the Urban Growth Expansion meeting he attended.
The Board of Commissioners completed their work at last night’s public hearing (November 17, 2003) on the three subarea plans, SKIA, Kingston and ULID #6, text amendments and site specific zoning changes. Some decisions had previously been made at the Board’s October 15 and November 10, 2003 public hearings.

Laura Ditmer
Reviewed the decision matrix for the Planning Commissioners, highlighting specific areas and explaining in detail the course taken by the Board of Commissioners. She recapped each site-specific decision, all of which were consistent with the Planning Commission’s recommendations.

Lary Coppola
Asked if the Board’s decision to defer the Sidney/Sedgwick properties will hold the property owners hostage for yet another year, since they already spent years going through the process for nothing in his opinion.

Planning Commission members asked Laura Ditmer to prepare and send out a summary of the Board’s decisions.*

Laura Ditmer
Continued on highlighting the Board of Commissioners’ decisions on the three sub-area Plans and the Interim Rural Forest components of the Comprehensive Plan amendments. Some additional issues covered include: 1) Arborwood being approved for 337 acres as Urban Reserve. 2) After going through the Planning Commission process, it was discovered that the Kingston population allocation had not been thoroughly analyzed. The Board then went back to re-analyze the numbers and adopted 640 for the period 2004 to 2017, with no implementing regulations. 3) The Master Planning component was approved for ULID#6. 4) Based on testimony received, the
Board made amendments and specific changes and approved proposed hybrid language for Interim Rural Forest. Some changes included: 20-year period increased to 40 years, simplified language on vegetative buffers for clustered development, enhanced language calling for monitoring requirements and a threshold established for a stop and assess report. Clustering options were approved at a minimum 1 per 5 acres in clustered areas and 1 per 2.5 acres on shoreline areas. The decision includes a threshold for monitoring after five years or 10,000 acres of using the clustering option has transpired. The County will stop processing further applications and the developer must stop and report back to the Planning Commission and Board of Commissioners to study what transpired on the first 10,000 acres and how successful the process was. Staff will write development regulations now that the Board has established policy language. This should be completed by next August.

Lary Coppola

Asked if, that after the five years or 10,000-acre clustering option has been utilized, does everything cease if five years have passed but the developer has only taken advantage of 100 acres for clustering?

Kamuron Gurol

Activity will be reported annually.

Lary Coppola

What about activity other than clustering, such as logging?

Kamuron Gurol

That will be reported also, but the zoning already allows for logging. The Department has been working with the Board to clarify such issues through its work program. Prioritization is critical given the limited staff and resources available. Since all issues are important, it makes it very hard for the Board to choose its priorities.
Lary Coppola
Wondered if staff is being asked to accomplish more than is realistically possible.

Kamuron Gurol
Difficult for the Department as well as the Board to prioritize issues that meets the needs of the public, the Board and the Department. It appears the Board does look favorably on providing some additional resources. The Department’s work program might be a good topic for discussion at the upcoming December 2, 2003 retreat. The Planning Commission can possibly help make achievable priority calls that meet the both the Planning Commission and the Board’s expectations.

William Matchett
Expressed concern about the bonus for 2 ½ acres on shoreline since there was no discussion on the details of this decision and therefore did not go through a public process.

Lary Coppola
That and several other issues are of concern to several of the Planning Commission members.

Laura Ditmer
Asked if the Planning Commission members had seen the comprehensive testimony and decision matrices and explained the format used for each, how the testimony matrix coordinated with the decision matrix and the process for constant updates from the beginning of the Comp Plan amendment process. It was reviewed with the Board previous to the public hearings and the Board was provided with all public testimony submitted as well as summarization in the testimony matrix. Staff reviewed these matrices line by line with the Board before its final decisions. She said these two documents are on the County’s Web site.

John Taylor
As a result the last evenings Board public hearing, do these matrices need to be updated?

Kamuron Gurol
It will take approximately a week plus to do this. The Board will make its final decision on December 8, so the update will need to be completed prior to that for a final review by the Board. There are also emails to the Board members that need to be collected and added to the testimony matrix. Staff is in the process of getting copies of these documents.* If Planning Commission members wish to see these documents, staff will provide them or they are available at the Department for public to view and copy if desired.

John Taylor
Requested hard copies of the two matrices for Planning Commission members without computers and the link emailed to the remainder.*

Lary Coppola
3. Asked if any of the amendments need to go back through public process.

Laura Ditmer
Any amendments or changes to the Planning Commission’s recommendations are put through legal review on an on-going basis.

Kamuron Gurol
The Board has some latitude for changes after reviewing the Planning Commission’s recommendations. For instance, the Planning Commission did not make a formal motion on Sharrard so the Board made a judgment call in its decision based on public comments.

Lary Coppola
Question the need for time spent by Planning Commission making recommendations if Board changed them in its decision.

Kamuron Gurol
Suggested discussing this matter at the retreat.

Discussion:
On the issue of Board changes to the Planning Commission’s recommendations, a lengthy discussion ensued. Comments and concerns included:

- Non compliance with the Planning and Enabling Act
- Up and down vote rationale
- Interaction between Planning Commission and Board regarding changes to the GMA and the Comp Plan
- Wording in the Planning and Enabling Act referencing changes made by the Board needing to be sent back to the Planning Commission for additional public hearing(s)
- The need for 5 or more votes at the Planning Commission level
- Prosecutor’s Office’s awareness of section sited from the Planning and Enabling Act
- Not appropriate for staff to give legal advice
- Constant consultation by staff with Prosecutor’s Office
- Clarity of the law as written
- Reason for Board kept record open for public comment as long as possible
- Whether changes in Planning Commission recommendations to the Board should be remanded back to Planning Commission for further public comment
- Need for legal advice on whether process by Board is correct
- Reference to ADUs heard by Board on December 3, 2003 not being remanded back to Planning Commission
- Need for legal compliance on all issues because of potential challenges to the Board’s final decisions
• If Planning Commission acts in good faith, why have one if Board is going to ignore its recommendations
• Elected vs. appointed officials
• Reason for separation of powers, especially with a 3 member Board for decision making
• Time constraints against remanding changes back to Planning Commission
• Need to discuss the amendment/remand issue with Board prior to January 27, 2004 schedule joint meeting

A motion was made by Michael Gustavson and seconded by John Taylor that the Planning Commission meet with the Board of Commissioners within the next 10 days to discuss the amendment/remand issue and that legal counsel be invited to attend.

John Ahl
Offered a friendly amendment to state “at the earliest possible date.”

Monty Mahan
Asked to see a written opinion first before meeting with the Board.*

John Taylor
Not realistic to get on the Board members’ schedule within 10 days.

Staff will see if it is possible to put this meeting together within the next two weeks.*

Kamuron Gurol
Laura Ditmer
Explained remaining scheduled deliberation and decision public hearings on Comp Plan amendment process to be held by the Board.
John Ahl
Suggested an alternative to scheduling a meeting with the Board. He said if the Planning Commission feels strongly that the process has been violated, the Planning Commission could draft a letter to the Board expressing concerns and reservations about the up-and-down recommendation/decision process between the Commission and the Board. A clearly stated letter would give the Board something to work on regarding the Planning Commission’s concerns about bypassing adequate process for amendments to recommendations per the Planning and Enabling Act.

John Taylor
At end of retreat on December 2, can ask legal counsel to draft the letter.

Kamuron Gurol
A letter could be drafted now or after the retreat. Also, another opportunity available for oral discussion would be the Board’s work/study on December 3.

Lary Coppola
Would like to read the letter into the record at the Board’s public hearing.

Kamuron Gurol
Can do that at the December 8, 2003 Board public hearing and then explained the difference between the public hearing and work/study forums for issues of this nature. Will discuss this issue today with Prosecutor’s Office. Importance of issue is not in question, only the timing of this action.

Deborah Flynn
Suggested a more flexible approach avoiding putting the Board in the same uncomfortable situation as the Planning Commission is
relative to questioning the correct procedure for amending
recommendations.

Lary Coppola
If Board is not complying with law, it is compromising the
Planning Commission’s role. Asked how the Planning
Commission might go about obtaining outside legal counsel
advice.

Kamuron Gurol
Gave example of Board’s dilemma in the decision making process
specifically when a GMA Hearings Board decision affects how the
Board of Commissioners may decide on a particular Comp Plan
amendment. This causes divisiveness of opinions among the
Board members.

Discussion:
• Information flow between Board and Planning Commission
• Both groups having same information before them
• Feedback loop not always complete
• Whether stakeholder groups understand why Board decided
  as it did
• Suggestion made to stakeholder groups to access case law
  for background information
• Executive sessions dealing with conversations such as GMA
case law discussions, not open to public and most staff
• Board can take risk on decisions but also want to listen to
  the public
• Perceived lack of public review
• Before writing letter, need good legal opinion including case
  law
• Clarification and review of RCW 36.70.430 and .440 and
  36.70A.035 §2a and 2b
• Real issue being latitude and scope of change the Board can
  make to the Planning Commission’s recommendations
• Avoid retreat becoming a single-topic retreat
• Topic could just include general procedures
• Submit issue to Prosecutor’s Office prior to retreat so representative of that office is prepared with response

A motion was made by Michael Gustavson that the Planning Commission address this concern at the December 2, 2003 retreat and ask legal counsel present to discuss. Letter can then be drafted, maybe by Laura Ditmer.*

A motion was made by Michael Gustavson and seconded by John Taylor that this issue be added to the Planning Commission retreat agenda and that legal counsel be consulted prior to the retreat. A letter can then be written following the retreat discussion.* The Vote: Aye-8; Against-0. Motion carried unanimously.

Lary Coppola

4. Port Orchard planning process committee meeting looked at different neighborhoods this time.

Regulations for Agriculture and Equestrian Activities

Eric Baker
Explained the proposed regulation revisions, the result of a 16-month process. The County noticed some inaccuracies in current regulations so a committee was formed to discuss these questionable regulations. An open house was held first and the Committee met eleven times that included time for public testimony. Out of this process evolved the recommendations before the Planning Commission today. He noted that these are replacement regulations, new but not additional. Explained the range of replacement changes and that the changes will ultimately be site-specific analysis for specific issues such as number of livestock.
Kamuron Gurol
Today is a briefing session to be followed by a public hearing before the Planning Commission at a later date.

Eric Baker
Proposals presented would change bulk regulations on animal densities table. For each area addressed, Eric listed new proposed changes in addition to what currently applies.

Discussion:
- Bulk relative to acreage
- Conservation District Farm Plan requirements
- Bulk regulations vs. Farm Plan and which is best suited for particular situations
- Number of units
- Setback requirements
- Open House success
- Grandfathering established uses
- Removal of word commercial from stables to state “riding”
- Permits needed
- Wanting to hold public hearing in January
- Zoning regulations, density increases and associated problems including noise issues
- Roosters, peacocks, associated regulations and neighborhood noise problems
- Setback criterion
- Conservation District and Cooperative Extension roles relative to animals
- Equestrian activities vs. setback regulations

Eric Baker
Will respond to any questions between now and time of public hearing.*

Accessory Dwelling Unit Discussion
Mark Grimm
Present to answer any questions or provide clarification on this issue.

Discussion and Questions
- Per RCW, what regulation would pertain to restriction of ADUs in any way?
- Kelley Robinson was asked what constituted conforming and non-conforming lots. Understanding that ADUs are allowed on 10 acres or more in rural residential zones.
- 10 acres incorrect; it is 5 acres.
- State law vs. 10-acre issue.
- Inability to obtain request for production of State law addressing ADUs on non-conforming lots.
- Planning Commission’s vote that ADUs would not be allowed on non-conforming lots when not attached to residence. The Board limited this recommendation.
- Violation of setback requirements.
- Conditional Use Permit application goes through Hearing Examiner process. Hearing Examiner prohibits CUP in any zone without variance approval.

Kamuron Gurol
Explained difference between a variance and a Conditional Use Permit. ADUs have required CUPs in rural areas for some time.
Understands Planning Commission recommended ADUs not be allowed on non-conforming lots in rural areas. Commissioner Endresen suggested the word may be added to preclusion without a variance. Still need to apply for a CUP. Development Code amendment Board public hearing will be held December 3, 2003 when this will be discussed.
Discussion:

- Again, issue of change to Planning Commission recommendation without a re-hearing
- Variance requirements
- At this time, is there a backlog of ADU requests being held up by the Planning Commission and the Board of Commissioners? If not, might be good issue for Board to send back to Planning Commission for further analysis and up-dated recommendation
- Concern over impact on Buildable Lands report

Deborah Flynn left meeting at 11:35 AM

John Taylor left meeting at 11:35 AM

Lary Coppola
Asked staff to relay this request to the Board on December 3, 2003.*

Countywide Planning Policies (CPP)

Kamuron Gurol
Explained Countywide Planning Policy packet to the Planning Commissioners, including an executive summary with briefing material for the Board to consider at last Wednesday’s work/study session, schedule for different elements, what has been done and what is left to do. He said this topic is not subject to Planning Commission review but is processed through Kitsap Regional Coordinating Council (KRCC) then forwarded to the Board of Commissioners for action. The policies apply to the County and its cities. Each Comp Plan must be consistent with CPPs. Key revisions to note: Centers - urban center for Silverdale’s urban core, Regional Industrial Center in the SKIA. End of next year is deadline for courts to take action and for KRCC to recognize these two additional centers. Designation of
Centers must meet PSRC criteria. Looking for consistency across the four major counties. Need more consistent criteria.

Lary Coppola
Asked why Kitsap is being asked for consistency with larger counties.

Kamuron Gurol/Laura Ditmer
The revised list is intended to be consistent with PSRC criteria and explained PSRC criteria used for centers.

Discussion:
- Possibility of Sidney/Sedgwick property being rezoned then annexed into the City of Port Orchard
- Possibility low through KRCC but possible through Kitsap County. Depends on consistency of PSRC criteria across the four large counties
- Competitive process for transportation funding
- Urban centers want pedestrian-friendly centers
- Competition for transportation funding
- Silverdale barely met criteria
- KRCC recognition of Navy housing and importance of coordination with the Navy
- Roles and responsibilities of Tribal governments
- Toll roads
- Population projections and distribution of work program
- 70-30 population rule
- Urban vs. rural population projections

John Ahl
Asked to see ranges and tables for population numbers. Not sure where numbers are located. Asked that this be presented to Planning Commission in the future.*

Laura Ditmer
Will give presentation on population allocation after first of 2004.*

John Ahl
Asked to see the need for re-designation in an area. Under impression there needed to first be a population projection. If this is not the case, need to know.*

Kamuron Gurol
In-depth discussion is needed to see how the projection is developed. There is accommodation vs. what the policy makers would like to accommodate. How large Kitsap wants to grow must be balanced with GMA regulations. Must prove can achieve population projection. There is a large range and Kitsap can choose within that range.

John Ahl
What component of population allocation can Planning Commission use in deliberations and recommendations? Important to determine how the county will grow and develop. Planning Commission is a part of the decision-making process in both urban and rural unincorporated areas of the County. Concern is that some communities do not want growth while others want nothing but growth without capacity to accommodate. Both create unique problems. How does each individual community’s needs affect the entire county analysis?

Michael Gustavson
Asked if County has accurate count of what properties are available for building sites to which Kamuron Gurol referenced the Land Capacity Analysis.

Discussion:
• Buildable lands
• Starting with UGAs then moving on from that point
• Population forecasts from KRCC
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- Population range comes from State office of financial management
- Distribution of population numbers
- Justification for population requests yet not going below or above top of range
- Problems associated with accommodating areas for population numbers
- Burden of assigning numbers
- KRCC Website shows analysis

Old Business

NONE

Other

1. Master Planning Ordinance

2. Retreat Agenda
   - Distributed

Exhibit No. Description

A. Meeting Agenda for November 18, 2003.
B. Legal notice for November 18, 2003 Planning Commission meeting
C. Proposed Agenda for Planning Commission Retreat – Based on draft submitted by John Ahl
D. Executive Summary for Countywide Planning Policies
E. Proposed Agricultural-Equestrian Regulation Revisions, 11/12/03-Eric Baker
F. Element B. Countywide Strategies to Designate Centers
G. KRCC Population Distribution Work Program
H. Planning Commissioners Journal

MINUTES approved this ______________ day of __________________, 2004.

__________________________________________
Lary Coppola, Chair

__________________________________________
Planning Commission Secretary

*Task List Item