MINUTES

KITSAP COUNTY PLANNING COMMISSION
August 31, 2004


A. In the absence of Chair Nevins, Vice Chair Mark Flynn called the meeting to order and made introductions.

B. WORK STUDY

Approval of Minutes

July 9, 2004

• Discussion was held regarding July 9 minutes. It was agreed that since the minutes have not been reviewed, approval will be postponed until the next Planning Commission meeting.

July 20, 2004

• Chair Flynn asked if the July 20 minutes should be approved or postponed as well. All members agreed to postpone and approve them with the July 9 minutes at the next Planning Commission meeting.

1. Critical Areas Ordinance (CAO) Review with Best Available Science (BAS)

Eric Baker- This scheduled work study was intended to be a preliminary to the joint public hearings on September 7th and 8th.
However, these joint public hearings have been canceled until sometime possibly in late November. Volumes I and II of the CAO with BAS Review was distributed to the Planning Commission. The contents were discussed as was previous concerns over lack of BAS review. Volume I pertains to wetlands and fish and wildlife habitat conservation areas and volume II covers geologically hazardous areas, frequently flooded areas and critical aquifer recharge areas. Concern has been expressed over lack of competency with respect to BAS and staff wants to be sure that the Board of County Commissioners and Planning Commission have the most current information available.

Baker listed criteria used to formulate accurate BAS to design a program. Staff met with various constituent groups, members of KAPO, Homebuilders, and Realtors, with the State departments of Ecology, Fish and Wildlife, the Kitsap County Water Quality Action Team and with the Board of County Commissioners. Staff is currently compiling all public comments, which are relatively brief. Staff has also met with the Tribes and they have submitted comments in writing. A useful suggestion was made to bring all stakeholders together in a workshop format to discuss specific portions of the first public draft that are of concern. Comments were received on both sides of the issue; these came from property rights groups, State Department of Fish and Wildlife, 1000 Friends of Washington and others. The predominant concern from all is buffer widths. Scientific back up is being solicited per concerns expressed. Results show that the buffers are either too large or too small. Potentially staff will be holding community workshops for stakeholders. Additionally, a public meeting will be scheduled for staff to make presentation on the CAO and citizens can comment. This is all work to be done before the end of 2004. Many other jurisdictions are also having difficulty in meeting the December 1, 2004 development regulations deadline. Documentation has been issued for review by counties by State offices. Other jurisdictions are preparing work plans for CTED explaining adoption process for developmental regulations in 2005, if not meeting the December 1, 2004 deadline. Today’s discussion is to focus on Best Available Science. One thing not in the binders distributed is a white paper on BAS summarizing most documents in the binders on BAS. This is set for completion by the middle of September. Staff will be working with a number of other individuals to further refine public comments for the
development of the second public draft. This is targeted for publication in late October or early November.

- Dean Jenniges – There is science to support both sides of the issue and how will common ground be evaluated to fulfill both requirements. He liked Jim Bolger’s paper but has also prepared his own research on setbacks and buffers. Some states, for instance California, consider the entire criteria of establishing buffers. It appears to Jenniges that Kitsap County has set a Washington State blanket coverage for streams.

E. Baker – BAS discusses various functions. It does not discuss buffers as a whole but addresses specifics such as shading, water temperature, water quality, humidity, etc. The WAC establishes what is BAS and allows ways to go to the extreme. To deal only with water quality for instance, one study can get it down to approximately 35 feet.

- Jenniges – Has seen some down to 15 feet. Has also seen contradictory statements indicating same science thinks shaded areas are good for salmon and unshaded areas are excellent.

E. Baker – BAS has two components. First, it must meet the WAC criteria and second, it has to be locally applicable. This is the toughest challenge. Kitsap County is unique in character and therefore meeting both criteria takes the hard work.

- John Ahl – Regarding a follow-up stakeholders gathering, he asked if such a group will address all setbacks or just those that the County has proposed to change.

E. Baker – Currently, since staff has been charged with assuring that the entire CAO meets BAS, most likely workshops will be based upon existing portions of County Code and not just the changes.

- Ahl – Through discussions, is it likely that one or more might change.
E. Baker – A collaborative effort with stakeholders usually results in some changes. Looking for new perspective and scientific evidence to assist staff in making decisions that will affect the second public draft.

- Ahl – Is the Planning Commission premature in reviewing and discussing a document at this time that may or may not reflect the actual document that goes to public hearing before the Planning Commission and the Board of County Commissioners.

E. Baker – Important to review the document to use as a baseline.

- Ahl – Not questioning any staff work prepared to date. Wondering if it might be better if the Planning Commission postponed its deliberations and work/studies until it is better known what draft it needs to study. Also, is it staff’s intent to add one or more Planning Commission member to the stakeholder’s group?

Cindy Baker – The County has three biologists on staff, two doing biology work. Other jurisdictions by comparison such as King, Snohomish and Pierce have 20-25 biologist who do nothing but stream and wetlands work. Kitsap County relied on these larger jurisdiction’s efforts to prepare the current CAO draft. Thinks it is worthwhile to read through the first draft representing staff’s best efforts at this time. Also thinks Kitsap County needs to solicit additional comments and interaction. Would like to get one of the King County biologist to come over and attend a speak-out. Currently, staff is trying to get a peer review to look at Kitsap’s draft to see if it meets BAS. This represents an objective, outside opinion. Feedback and good discussion are encouraged. December 1, 2004 may not be a realistic deadline but if it needs to go past that date to get the best product, that is what staff will do.

E. Baker – There will be at least one, if not two, Planning Commissioners invited to the workshop.
• Jenniges – Seems that BAS continually supports wider buffers. It is apparent that the citizens are against the larger buffers. Therefore if the County decides to support additional buffers, he wondered if consideration for compensation of land loss has been discussed.

E. Baker – The issue of takings has been discussed for many years. Currently there are programs in place to assist with this problem. For example the Open Space program and property acquisition by the County of lands along endangered stream channels through Parks Open Space program. Funding for these programs are the hard part. This is still an overreaching problem not just locally but across the country.

• Jenniges – Why hasn’t the County taken action with the Department of Fish and Wildlife to stop fishing for a specified time period. Not convinced there is a shortage of fish. Significant net fishing across streams is major cause of problem.

E. Baker – Discussed various ways of dealing with the threat to endangered species.

Patty Charnas gave an overview of the two large binders explaining the chapter titles, layout, scientific literature, rationale and ways for the Planning Commission members to familiarize themselves with the material.

C. Baker explained who Sheldon and Associates are in that they did the wetlands portion of the current draft. Considers Diane Sheldon to be an expert in the region.

E. Baker – BAS definitely indicates that site specific, down-to-the-stream reach data is what all jurisdictions should be working toward. Staff is working toward funding to do this type of analysis, which could ultimately result in a narrower buffer width. The habitat values of streams vary up and down the channels. Some reaches need more buffers, some less. Habitat Management is factored in as a concept
that helps get “reach specific” data and provides ability to view the subject property for the appropriate buffer width. The proposed revisions to the CAO, gives staff the ability to give a 50% reduction in buffers. This is not available in the current ordinance based upon a habitat management plan.

C. Baker – Attempting to have minimum, not maximum, buffers, only being necessary to protect sensitive areas. There are some massive requirements now for streams asking for 600 feet, one quarter of a mile. Not sure this is necessary in the Northwest. Staff is striving for minimal amount needed to offer necessary protection. It is a difficult task and input is encouraged from the Planning Commission. Scientists are being relied on as much as possible.

- Jenniges – Has also read where streams are too clean.

C. Baker – Referenced a situation in Alaska where a huge ravine full of debris would have cost $21 million dollars to clean out. It was a wildlife habitat. An assessment was requested that concluded the stream in the ravine was potentially the healthiest stream of any in Adak. Believes that there are ridiculous extremes as well as adequate protection. County staff is trying hard to arrive at the best answer to the problem that is not any easy task. Pierce, King and Snohomish counties are the closest resources available other than for the aquifer discharge issue.

E. Baker – If anyone has any questions on materials in the two large binders, the best staff people to contact are Jim Bolger with Natural Resources, Rick Kimball with Environmental Review and Patty Charnas. Phone numbers were provided.

- Michael Gustavson – Explained his background in natural resources and science and questioned the “Best Available” wording in BAS. Most impressed with multiple studies creating much data to analyze. Impact is then decided avoiding the harvest issue.
C. Baker – Offered to try and get Diane Sheldon and Allan Johnson, a Fisheries Biologist, to come talk to the Planning Commission and answer questions. The Planning Commission was interested in this taking place once the members have had a chance to review the material distributed today.

- Gustavson – Also suggested inviting an Ornithology professor specializing in buffers for wildlife at the University of Washington who has commented that a six to ten foot buffer is fine. A presentation of this nature needs to be balanced. Aquifer recharge cannot be touched, thus is protected by default.

C. Baker – Prefers to have true experts provide information and answer questions that might still be needed after material is reviewed.

- Jenniges – Questioned if task at hand, Is to save streams, rejuvenating streams, insure habitat and salmon runs or prevent people from building next to streams. In general, what is the purpose?

C. Baker – To protect and allow some restoration. Impeding development is not part of the process. Many studies are available on streams. Streams are most important relative to impediment to fish runs. Questioned if any Planning Commission members have seen the infiltration lots in parking area below this meeting place. If not, recommends viewing this new concept.

- Gustavson – Also need to evaluate the science that validates requirements for a setback. Feels that to require a setback in addition to a buffer is unsupportable.

E. Baker – Meeting schedule is tentative at this time. Trying for a workshop in October, accepting comment on first public draft through middle of September, followed by a second public draft early to mid November and then a public hearing. Currently, nothing is scheduled for the Planning Commission on the CAO but staff is trying to lock in a
date for a joint Board of County Commissioners/Planning Commission public hearing.

C. Baker – Exception to the schedule will be if the above-mentioned guest scientists can be schedule to attend a Planning Commission meeting yet to be determined.

E. Baker - At this time, the only dates tentatively available are the end of November after Thanksgiving. There will be another Planning Commission work/study on the second public draft following a workshop and a public hearing. There will be at least one, if not two more work/study sessions for the Planning Commission but will be set prior to a public hearing date yet to be determined. At next scheduled Planning Commission meeting, staff will be asking at least two Planning Commission delegates to attend the workshop. Since nothing is currently planned to present to the Planning Commission, the next meeting date is unscheduled. Showing is a joint Board of County Commissioners/Planning Commission public hearing on Countywide Planning Policies (CPPs) scheduled for September 30, 2004 from 6:30-9:00 PM at the Presidents Hall. Staff will update the Planning Commission members regarding the next meeting.

C. Baker – Does not know when or if the scientists referenced today will be available because they are probably in large demand from other jurisdictions relative to CAOs. She suggested a possible meeting date time change if these experts are available to attend.

E. Baker – No meeting is set for September because either there were no items for the agenda or a conflict existed.

- Deborah Flynn – Asked what the Planning Commission roll is on CPPs, understanding this to be a multi-jurisdictional issue.

C. Baker – KRCC has already given its recommendation to the Board of County Commissioners on the CPPs, and thinks the Board now is waiting for additional information on population allocation. Not sure the September 30, 2004 joint public hearing date is accurate. If this is not a valid date, then possibly this time could be used for the meeting with
the scientists. Staff will work it out and contact the Planning Commission. Since this public hearing was set for 6:30-9:00 PM, she asked if the Planning Commission would be willing to use that time to meet with the scientists. Phone calls need to be made first with some commitment assurances before proceeding further with establishing the date and time. Will see if perhaps a potential panel can be formed to answer questions on trees, setbacks and the general system. She also suggested the Planning Commission bring their scientist and also referenced KAPO's.

- Gustavson – Suggested a short presentation at that time.

C. Baker – Cannot guarantee it but feels it might be of interest.

- John Taylor – It will be educational and beneficial to the Planning Commission

C. Baker – Might be able to get the Board of County Commissioners to attend for just an overall discussion between the Board, the scientists and the Planning Commission members.

- Gustavson – Discussed a March 6, 2004 letter referenced by Jim Bolger in the information binders listing the seven largest applicative studies on salmon streams. Suggested it would be helpful for the Planning Commission to have access to this letter. Staff will provide.

- D. Flynn – Next regular meeting for the Planning Commission is the second Tuesday of September, unless officially cancelled.

C. Baker – Cannot make this panel meeting take place that quickly. Staff will check out proper notification. In addition, when public calls her asking for information, she will generally have staff fill the request. However, if a Planning Commissioner needs to discuss something specifically with her, she will return the call. Staff will also do the same.
C. Baker - Brief discussion about public hearing schedule for CPPs and
the 2004 Comp Plan Amendments. September 27, 2004 is all day
hearing when the CPPs will be addressed. October 18, 2004 is public
hearing for adoption ordinances on both issues.

Old Business:

Review the (?) inaudible

New Business:

None

Other Business:

- Jenniges – Approached as to why the County is having
problems with the new Sportsman’s Restaurant’s sign.

Not Planning Commission business.

C. Baker – Believes there are issues with the County’s sign ordinance
that need some flexibility. Will be looking at this next year.

E. Baker – In Wetlands section of the binders, there is a document
missing. It is the second page of that section. Staff will provide.

No further business being heard, the meeting be adjourned.

Exhibit No. Description

A. Draft Agenda for August 31, 2004 Planning Commission meeting
B. Reference to CAO Binders I and II, First public draft (GMA Index and
  Library)
C. Legal Notice for August 31, 2004 Planning Commission meeting

MINUTES approved this ____ day of ____________________, 2004.