

# MINUTES

## KITSAP COUNTY PLANNING COMMISSION August 31, 2004

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The Kitsap County Planning Commission met on the above-stated date at the Eagle's Nest Conference Center, 1195 Fairgrounds Rd, Bremerton, Washington 98311. Members **Present:** Deborah Flynn, John Ahl, Michael Gustavson, Mark Flynn, John Taylor and Dean Jenniges. **Not Present:** Monty Mahan, Tom Nevins and Lary Coppola. Staff Present: Cindy Baker, Laura Ditmer, Eric Baker, Patty Charnas, Angie Silva and Brynan Pierce.

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 7<sup>th</sup> and 8<sup>th</sup>.

1 However, these joint public hearings have been canceled until  
2 sometime possibly in late November. Volumes I and II of the CAO with  
3 BAS Review was distributed to the Planning Commission. The  
4 contents were discussed as was previous concerns over lack of BAS  
5 review. Volume I pertains to wetlands and fish and wildlife habitat  
6 conservation areas and volume II covers geologically hazardous areas,  
7 frequently flooded areas and critical aquifer recharge areas. Concern  
8 has been expressed over lack of competency with respect to BAS and  
9 staff wants to be sure that the Board of County Commissioners and  
10 Planning Commission have the most current information available.  
11 Baker listed criteria used to formulate accurate BAS to design a  
12 program. Staff met with various constituent groups, members of  
13 KAPO, Homebuilders, and Realtors, with the State departments of  
14 Ecology, Fish and Wildlife, the Kitsap County Water Quality Action  
15 Team and with the Board of County Commissioners. Staff is currently  
16 compiling all public comments, which are relatively brief. Staff has also  
17 met with the Tribes and they have submitted comments in writing. A  
18 useful suggestion was made to bring all stakeholders together in a  
19 workshop format to discuss specific portions of the first public draft that  
20 are of concern. Comments were received on both sides of the issue;  
21 these came from property rights groups, State Department of Fish and  
22 Wildlife, 1000 Friends of Washington and others. The predominant  
23 concern from all is buffer widths. Scientific back up is being solicited  
24 per concerns expressed. Results show that the buffers are either too  
25 large or too small. Potentially staff will be holding community  
26 workshops for stakeholders. Additionally, a public meeting will be  
27 scheduled for staff to make presentation on the CAO and citizens can  
28 comment. This is all work to be done before the end of 2004. Many  
29 other jurisdictions are also having difficulty in meeting the December 1,  
30 2004 development regulations deadline. Documentation has been  
31 issued for review by counties by State offices. Other jurisdictions are  
32 preparing work plans for CTED explaining adoption process for  
33 developmental regulations in 2005, if not meeting the December 1,  
34 2004 deadline. Today's discussion is to focus on Best Available  
35 Science. One thing not in the binders distributed is a white paper on  
36 BAS summarizing most documents in the binders on BAS. This is set  
37 for completion by the middle of September. Staff will be working with a  
38 number of other individuals to further refine public comments for the

1 development of the second public draft. This is targeted for publication  
2 in late October or early November.

- 3
- 4 • Dean Jenniges – There is science to support both sides of the  
5 issue and how will common ground be evaluated to fulfill both  
6 requirements. He liked Jim Bolger’s paper but has also  
7 prepared his own research on setbacks and buffers. Some  
8 states, for instance California, consider the entire criteria of  
9 establishing buffers. It appears to Jenniges that Kitsap County  
10 has set a Washington State blanket coverage for streams.

11

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

- 17
- 18 • Jenniges – Has seen some down to 15 feet. Has also seen  
19 contradictory statements indicating same science thinks  
20 shaded areas are good for salmon and unshaded areas are  
21 excellent.

22

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

- 27
- 28 • John Ahl – Regarding a follow-up stakeholders gathering, he  
29 asked if such a group will address all setbacks or just those  
30 that the County has proposed to change.

31

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

- 35
- 36 • Ahl – Through discussions, is it likely that one or more might  
37 change.
- 38

1 E. Baker – A collaborative effort with stakeholders usually results in  
2 some changes. Looking for new perspective and scientific evidence to  
3 assist staff in making decisions that will affect the second public draft.

- 4
- 5 • Ahl – Is the Planning Commission premature in reviewing and  
6 discussing a document at this time that may or may not reflect  
7 the actual document that goes to public hearing before the  
8 Planning Commission and the Board of County  
9 Commissioners.

10

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

- 12
- 13 • Ahl – Not questioning any staff work prepared to date.  
14 Wondering if it might be better if the Planning Commission  
15 postponed its deliberations and work/studies until it is better  
16 known what draft it needs to study. Also, is it staff's intent to  
17 add one or more Planning Commission member to the  
18 stakeholder's group?

19

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

34

35 E. Baker – There will be at least one, if not two, Planning  
36 Commissioners invited to the workshop.

37

1           • Jenniges – Seems that BAS continually supports wider buffers.  
2           It is apparent that the citizens are against the larger buffers.  
3           Therefore if the County decides to support additional buffers,  
4           he wondered if consideration for compensation of land loss has  
5           been discussed.

6  
7   E. Baker – The issue of takings has been discussed for many years.  
8   Currently there are programs in place to assist with this problem. For  
9   example the Open Space program and property acquisition by the  
10   County of lands along endangered stream channels through Parks  
11   Open Space program. Funding for these programs are the hard part.  
12   This is still an overreaching problem not just locally but across the  
13   country.

14  
15           • Jenniges – Why hasn't the County taken action with the  
16           Department of Fish and Wildlife to stop fishing for a specified  
17           time period. Not convinced there is a shortage of fish.  
18           Significant net fishing across streams is major cause of  
19           problem.

20  
21   E. Baker – Discussed various ways of dealing with the threat to  
22   endangered species.

23  
24   Patty Charnas gave an overview of the two large binders explaining the  
25   chapter titles, layout, scientific literature, rationale and ways for the  
26   Planning Commission members to familiarize themselves with the  
27   material.

28  
29   C. Baker explained who Sheldon and Associates are in that they did  
30   the wetlands portion of the current draft. Considers Diane Sheldon to  
31   be an expert in the region.

32  
33   E. Baker – BAS definitely indicates that site specific, down-to-the-  
34   stream reach data is what all jurisdictions should be working toward.  
35   Staff is working toward funding to do this type of analysis, which could  
36   ultimately result in a narrower buffer width. The habitat values of  
37   streams vary up and down the channels. Some reaches need more  
38   buffers, some less. Habitat Management is factored in as a concept

1 that helps get “reach specific” data and provides ability to view the  
2 subject property for the appropriate buffer width. The proposed  
3 revisions to the CAO, gives staff the ability to give a 50% reduction in  
4 buffers. This is not available in the current ordinance based upon a  
5 habitat management plan.

6  
7 C. Baker – Attempting to have minimum, not maximum, buffers, only  
8 being necessary to protect sensitive areas. There are some massive  
9 requirements now for streams asking for 600 feet, one quarter of a  
10 mile. Not sure this is necessary in the Northwest. Staff is striving for  
11 minimal amount needed to offer necessary protection. It is a difficult  
12 task and input is encouraged from the Planning Commission.  
13 Scientists are being relied on as much as possible.

- 14  
15 • Jenniges – Has also read where streams are too clean.

16  
17 C. Baker – Referenced a situation in Alaska where a huge ravine full of  
18 debris would have cost \$21 million dollars to clean out. It was a wildlife  
19 habitat. An assessment was requested that concluded the stream in  
20 the ravine was potentially the healthiest stream of any in Adak.  
21 Believes that there are ridiculous extremes as well as adequate  
22 protection. County staff is trying hard to arrive at the best answer to  
23 the problem that is not any easy task. Pierce, King and Snohomish  
24 counties are the closest resources available other than for the aquifer  
25 discharge issue.

26  
27 E. Baker – If anyone has any questions on materials in the two large  
28 binders, the best staff people to contact are Jim Bolger with Natural  
29 Resources, Rick Kimball with Environmental Review and Patty  
30 Charnas. Phone numbers were provided.

- 31  
32 • Michael Gustavson – Explained his background in natural  
33 resources and science and questioned the “Best Available”  
34 wording in BAS. Most impressed with multiple studies creating  
35 much data to analyze. Impact is then decided avoiding the  
36 harvest issue.

37

1 C. Baker – Offered to try and get Diane Sheldon and Allan Johnson, a  
2 Fisheries Biologist, to come talk to the Planning Commission and  
3 answer questions. The Planning Commission was interested in this  
4 taking place once the members have had a chance to review the  
5 material distributed today.

- 6
- 7 • Gustavson – Also suggested inviting an Ornithology professor  
8 specializing in buffers for wildlife at the University of  
9 Washington who has commented that a six to ten foot buffer is  
10 fine. A presentation of this nature needs to be balanced.  
11 Aquifer recharge cannot be touched, thus is protected by  
12 default.

13

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

- 16
- 17 • Jenniges – Questioned if task at hand, Is to save streams,  
18 rejuvenating streams, insure habitat and salmon runs or  
19 prevent people from building next to streams. In general, what  
20 is the purpose?

21

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

- 28
- 29 • Gustavson – Also need to evaluate the science that validates  
30 requirements for a setback. Feels that to require a setback in  
31 addition to a buffer is unsupportable.

32

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

1 date for a joint Board of County Commissioners/Planning Commission  
2 public hearing.

3

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

7

8 E. Baker - At this time, the only dates tentatively available are the end  
9 of November after Thanksgiving. There will be another Planning  
10 Commission work/study on the second public draft following a  
11 workshop and a public hearing. There will be at least one, if not two  
12 more work/study sessions for the Planning Commission but will be set  
13 prior to a public hearing date yet to be determined. At next scheduled  
14 Planning Commission meeting, staff will be asking at least two  
15 Planning Commission delegates to attend the workshop. Since nothing  
16 is currently planned to present to the Planning Commission, the next  
17 meeting date is unscheduled. Showing is a joint Board of County  
18 Commissioners/Planning Commission public hearing on Countywide  
19 Planning Policies (CPPs) scheduled for September 30, 2004 from 6:30-  
20 9:00 PM at the Presidents Hall. Staff will update the Planning  
21 Commission members regarding the next meeting.

22

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

27

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

30

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

33

34 C. Baker – KRCC has already given its recommendation to the Board  
35 of County Commissioners on the CPPs, and thinks the Board now is  
36 waiting for additional information on population allocation. Not sure the  
37 September 30, 2004 joint public hearing date is accurate. If this is not  
38 a valid date, then possibly this time could be used for the meeting with

1 the scientists. Staff will work it out and contact the Planning  
2 Commission. Since this public hearing was set for 6:30-9:00 PM, she  
3 asked if the Planning Commission would be willing to use that time to  
4 meet with the scientists. Phone calls need to be made first with some  
5 commitment assurances before proceeding further with establishing the  
6 date and time. Will see if perhaps a potential panel can be formed to  
7 answer questions on trees, setbacks and the general system. She also  
8 suggested the Planning Commission bring their scientist and also  
9 referenced KAPO's.

- 10  
11 • Gustavson – Suggested a short presentation at that time.

12  
13 C. Baker – Cannot guarantee it but feels it might be of interest.

- 14  
15 • John Taylor – It will be educational and beneficial to the  
16 Planning Commission

17  
18 C. Baker – Might be able to get the Board of County Commissioners to  
19 attend for just an overall discussion between the Board, the scientists  
20 and the Planning Commission members.

- 21  
22 • Gustavson – Discussed a March 6, 2004 letter referenced by  
23 Jim Bolger in the information binders listing the seven largest  
24 applicative studies on salmon streams. Suggested it would be  
25 helpful for the Planning Commission to have access to this  
26 letter. Staff will provide.

- 27  
28 • D. Flynn – Next regular meeting for the Planning Commission  
29 is the second Tuesday of September, unless officially  
30 cancelled.

31  
32 C. Baker – Cannot make this panel meeting take place that quickly.  
33 Staff will check out proper notification. In addition, when public calls  
34 her asking for information, she will generally have staff fill the request.  
35 However, if a Planning Commissioner needs to discuss something  
36 specifically with her, she will return the call. Staff will also do the same.  
37

1 C. Baker - Brief discussion about public hearing schedule for CPPs and  
2 the 2004 Comp Plan Amendments. September 27, 2004 is all day  
3 hearing when the CPPs will be addressed. October 18, 2004 is public  
4 hearing for adoption ordinances on both issues.

5  
6 **Old Business:**

7  
8 Review the (?) inaudible  
9

10 **New Business:**

11  
12 None  
13

14 **Other Business:**

- 15  
16 • Jenniges – Approached as to why the County is having  
17 problems with the new Sportsman’s Restaurant’s sign.  
18

19 Not Planning Commission business.  
20

21 C. Baker – Believes there are issues with the County’s sign ordinance  
22 that need some flexibility. Will be looking at this next year.  
23

24 E. Baker – In Wetlands section of the binders, there is a document  
25 missing. It is the second page of that section. Staff will provide.  
26

27 No further business being heard, the meeting be adjourned.  
28

29 **Exhibit No. Description**

- 30  
31 A. Draft Agenda for August 31, 2004 Planning Commission meeting  
32 B. Reference to CAO Binders I and II, First public draft (GMA Index and  
33 Library)  
34 C. Legal Notice for August 31, 2004 Planning Commission meeting  
35

36 MINUTES approved this \_\_\_\_ day of \_\_\_\_\_, 2004.  
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**Kitsap County Planning Commission –August 31, 2004**

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Tom Nevins, Chair

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Planning Commission Secretary