KITSAP COUNTY PLANNING COMMISSION
PUBLIC HEARING
March 22, 2005

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: Mark Flynn,
Monty Mahan, Michael Gustavson, John Ahl, Lary Coppola, John
Taylor, Deborah Flynn and Dean Jenniges. Member Absent: Tom
Nevins. Staff Present: Eric Baker, Patty Charnas, Jim Barnard and
Planning Commission Secretary Holly Anderson.

9:00 AM

A. Chair Mark Flynn called the meeting to Order and
introduced the Planning Commission members present.

9:05 A.M.

Approval of Minutes

B. March 8, 2005 Minutes

A motion was made by Dean Jenniges and seconded by John Taylor that
the Planning Commission minutes of March 8, 2005 be approved subject
to edits. Mike Gustavson, Lary Coppola and Deborah Flynn abstained.
Motion carried.

C. Mike Gustavson entered into the record, for Kitsap County legal
review, a hand-out listing a summary of Growth Management
Hearings Board (GMHB) conflicting legal decisions. The Planning
Commission needs clarification to know what is or is not binding. A
motion was made by Michael Gustavson and seconded by Monty
Mahan that staff obtain County legal review and opinion for guidance
to the Planning Commission. The Vote: 7-Aye; 0-Nay; Deborah
Flynn abstained. Motion carried.
• Gustavson – Explained that such case law as outlined in his paper will affect future Planning Commission recommendations.

• Ahl – Asked if the issues conflicting in the case law would preclude the Planning Commission from moving forward at this point.

• Gustavson – Wants to know where the Planning Commission stands relative to the conflicting case law

• Monty Mahan – Not willing to move forward without further clarification on these issues

• Dean Jenniges – Gustavson basically summarized court cases that could or will affect the Planning Commission’s future recommendations relative to issues such as critical areas and buffers. Gustavson wants legal to be definitive on the specifics of issues such as buffers and setbacks.

• Gustavson – Wants to see the Planning Commission put forth recommendations that will stand up in court.

D. Public Hearing to consider revisions to the Kitsap County Code Chapter 16.48 as it relates to Nine-lot Short Subdivision Ordinance.

Eric Baker – Kitsap County Department of Community Development staff, summarized proposed revisions to the Kitsap County Short Subdivision Ordinance, to accommodate up to nine lots through the short plat process in Urban Growth Areas (UGAs). Discussion with the Planning Commission on this item began in 2003 followed by circulation of a previous draft. The Planning Commission had concerns regarding length, complexity and the process used to develop the document. Subsequently, Kitsap County convened a stakeholders’ group comprised of members of the development community, cities of Bremerton and Port Orchard and County staff. From this process a new draft was created and presented at the previous Planning Commission work/study on March 8, 2005. The details of the changes can be found in the summary presented by Baker at the March 8, 2005 work/study. Briefly, they pertain to
streamline items within the Code and more substantive changes relative to the change in number of lots from 1-4 to 5-9 within a short subdivision. Under today’s regulations, a subdivision of 5 to 9 units is processed through a platting process that is not an administrative decision made by staff; it must go through the Hearing Examiner process. The difference proposed eliminates roughly one year of time. The changes recommended in today’s document, allows development of 5 to 9 lots under a short subdivision process potentially saving developers up to a year’s time in getting their subdivision built to capacity. Baker highlighted Section 16.48.090 on page 6, addressing road connectivity. This section provides for the Director of DCD to make a determination if road connection is necessary. The concern is that a larger parcel could logically be accessed through the short platted property. For instance, the larger parcel could have a ravine on both sides, making access into the property impossible any other way except through the short subdivision property. As the most reasonable approach, it still permits a smaller roadway to be used for access into the short subdivision, thus cutting off potential to access a much larger parcel. Since the idea of a UGA is to maximize density, Kitsap County needs to help facilitate development as much as possible. This situation will not occur often, but it does happen and staff wants to utilize the Road Connectivity option if necessary. If determined necessary, the roadway would need to be developed to Public Works Road Standards; a non-requirement for nine-lot subdivisions as proposed. Instead, they are subject to a separate set of Private Road Standards.

• Deborah Flynn – Noted “required” has been changed to “is necessary in the latest draft.”

E. Baker – Entire section (D) is new. This change came from suggestions made by the Planning Commission at the previous work/study.

• Jenniges – Questioned why, relative to road connectivity, the County standard would change from one standard to another?

E. Baker – It is generally expected that road connectivity will be assessed when a large piece of property (40-60 homes) with Fire Marshall standards being required first for the entrance followed by a platting standard requiring a Public Road Standard in the much
larger development. For a site that can handle this amount of homes, the Fire Marshall standards are not adequate to provide for general traffic safety issues.

- Jenniges – Would this adversely affect the current residential areas or would they need to improve their standards as well.

E. Baker – This would apply only to new subdivisions.

- Gustavson – Asked if this provision allows for adequate expansion to match the anticipated growth.

E. Baker – Explained that these issues would be satisfied in the Public Works’ overall Transportation Plan. The proposed language requires all new development to address potential road connectivity. The last main area of substantive changes is found under 16.48.095, indicating a list of additional requirements for short subdivisions of five to nine lots. This is predominantly the private road standards section. The development community was concerned about having to use the somewhat rigid Public Road Standards for a relatively small type of development. Doing so makes it difficult to develop. The stakeholders’ group developed a set of road standards applicable to only short subdivisions of five to nine lots; not to one to four lots. Instead of utilizing easements, the roadways will need to be created in the form of Access Tracks, owned in part by all property owners in the development. This requirement establishes the maximum widths that must be dedicated to use as well as how much would be developable. For instance, fire standards are roughly 20 feet, leaving a 20-foot wide roadway to meet Fire Marshall Standards. The surface needs to either be paved or constructed with other low impact all weather surface materials. In addition to the 20 foot Fire Marshall road width requirement, there is also a four-foot pedestrian pathway requirement included. This does not need to be a sidewalk, but must be some type of path dedicated to walkers. Next, there is a utility easement requirement allowing utility companies to work outside of the Access Track. Lastly, there is a requirement to establish a HOA (Homeowners Association) with CCRs (covenant, conditions and restrictions) addressing maintenance of the roadway. He noted items such as the Director’s ability to increase or decrease requirements based upon topography, critical areas or public safety issues; approval has been changed
from three to five years, making this more commensurate with the
State RCWs; and this five year period expires automatically rather
than the County having to notify the applicant in writing. There have
been problems in the past with disputed receipt of notification.

Chair Mark Flynn opened the public testimony portion of this public
hearing.

PUBLIC COMMENT

Vivian Henderson – KAPO – Comments, questions and suggestions
include: 1) Wording on page 15, under “Construction.” That states “.
. . to secure the public health, safety, morals and welfare. . .”
Suggested revising this language as she thinks the County should
not be charged with protecting anyone’s morals. She submitted a
written definition of Morals; 2) Questioned protecting rural esthetic
qualities, neighborhood identities, buffers. Government cannot take
people’s land for buffers. She submitted a copy of Sandy Macky’s
Protection of Critical Areas and the Methodology of Buffers; 3) Page
2 “Dedication” item G sounds like an exaction. Asked what type of
incentive a property owner will receive in return for dedicating
property under these requirements; 4) Same page, item K
“Environmentally sensitive area” uses the acronym most commonly
associated with the Endangered Species Act “ESA.” Cautioned staff
not to use this reference as it could be grossly misused and
misunderstood by Government; 5) item N asked that the original
wording might be considered. Thinks it sounds better than the new
language; 6) item Q, not comfortable with “Passive recreational
uses.” Thinks this is another abuse waiting to happen since it is
open to individual staff members’ interpretation; 7) Page 7, additional
requirements for short subdivisions. She is aware of rising cost of
doing business and is concerned about sidewalk requirements; 8)
item G, asked how Government can mandate a Homeowners’
Association. Understands that CCRs) can be mandated, but a
Homeowners Association asks people to make a substantial
commitment, usually free gratis. Thinks it is the neighborhoods
choice as to whether they want to have an association, or not; 9)
Page 8, Preliminary Short Subdivision approval, she suggested it
simply state “expires in five years.” Housing is needed now and a
definite cut-off time will assist in opening up more land; 10) Page 14,
correct page is13) “Dedications” might be another exaction.
Submitted copy of US Supreme Court decision on this issue; 11) Page 14, “Development of Illegally divided land.” Needs clarification for better understanding of this section; and 12) Page 13, “Declaration regarding further subdivision.” Again, Henderson addressed the wisdom of a five-year rule. There already exists a critical shortage of buildable lots. This requirement is too lengthy and needs to be revisited.

Discussion between Planning Commission members and Ms Henderson ensued regarding requirement of CCRs and Homeowners’ Association membership. Some points mentioned: 1) Whether this is up to the home owners themselves or the developer; 2) If mandated in the past by the County; 3) CCRs and Homeowners Associations being an active part of the platting process over the years; 4) The County’s position on this issue; and 5) Examples of specific CCRs in various areas of the County.

Jim Coomb – Developer in Kitsap County for past 20 years, a member of the Kitsap County Homebuilders, Real Estate Broker and residential subdivision contractor. As a member of the stakeholder group that worked on this draft nine-lot short plat ordinance, he explained makeup of the committee and the work accomplished. Changes begin when plated property can accommodate more than four lots in a subdivision. He concurred that the time savings of up to a year’s time is a great benefit. Coomb referenced page 7, “Access Tracts” noting that the group spent the majority of its time on this section. He questioned the size of access for 5-9 lots but agreed with the clause allowing Director to increase/decrease size of road would be acceptable. Sidewalks make sense in some instances, but are not necessary. Good judgment is needed and again Director has ability to make changes if warranted. This language is agreeable to him. Thinks the document overall is a very good one. There are safeguards for developers to use in creating five to nine lot short subdivisions. The overall intent of the proposed changes to the ordinance was not to change terminology and eliminate old language, but to add 9 lot requirements to the existing document. When asked about thoughts on CCRs, he said this is a problem nationwide and that it comes with selective enforcement. CCRs have a place through enforcement by the Homeowners Association.
Suggested the Prosecutor’s Office be asked to take a look at the legalities of CCRs.

- Jenniges - Asked who develops the CCRs and was told typically, it is the developer. Knows of several Homeowners Association currently in conflict due to inability to activate their Association.

- Gustavson – Thinks this only applies to the Access Tracks and not to the adjacent land.

- Coomb – Agreements are necessary to maintain the roads. Needed a mechanism to accomplish this and the Homeowners Association and CCRs appeared to be the best way to address this.

- Gustavson – Suggested it might be better to just require an Access Track Maintenance Agreement.

Jean Bradford – Real estate agent with John L. Scott for 20 years, said that CCRs are usually required by DCD in the list of conditions. She suggested this matter be revisited to determine if the CCRs might be too restrictive. A problem with establishing Homeowners Associations, people in charge can get power hungry and suggested exercising caution about belonging to one. Also, some rules established by Home Owners Associations are far too restrictive. Thinks Kitsap County should rethink having parks within a subdivision, because there is enough open space with buffers and setbacks. Parks might need to be maintained by a Home Owners’ Associations but often does not happen. In addition, dues are required to belong to a Home Owners Association. When preparing conditions, staff should keep these issues in mind.

Fred Depee – of South Kitsap, also addressed page 7, item G, regarding the Home Owners Association issue. He said that normally a Home Owners Association is formed when an amenity to the plat has a common, shared expense attached. Examples would be tot lots, hidden power lines, etc. Believes this particular condition on the nine-lot short subdivision pertains to roads. It is his understanding that if the new road meets all County standards then it can be dedicated to the County, negating any specifically-related expense since the County would then maintain road access. In other
words, the maintenance issue would only apply to a private road not meeting County requirements. Depee would therefore like to see reference to requiring a Home Owners’ Association removed from the document.

- Ahl – Asked Depee if this provision to maintain non-standard County roads is eliminated from the ordinance, would the alternative be to require County standard roads in all Nine-lot Short Subdivisions?

Depee – Thinks the option should be left to individual property owners. The reason for this is that there may be situations wherein the topography or make-up of the property is such that it would not allow for a full width County road standard access. The solution for maintaining the road would depend on the size (width) of the road. If private, the plat would need a Home Owners’ Association to require maintenance and upkeep. In summary, this needs to be a free market decision, not a County-mandated requirement. To further explain, Depee said If a person has a track of land and develops the access tract to County standards, they would then dedicate the road to the County for maintenance. The expense of upkeep would no longer be a burden to the lot owners. Conversely, if in the same plat, the access road design was too narrow to meet County standards, it would then be privately owed by individuals within the plat who would be responsible for maintaining the road. Therefore the distinguishing factor is whether it is public or private and believes this option should be the decision of the developer of the property and not a County government requirement for plat approval.

- Ahl – Thinks that option is already contained within the draft language of the ordinance. His question is that if a property owner opts out of the County Road Standards, do you then say a guarantee of road maintenance is needed via language to require sharing in the responsibility.

Depee – Reality is that there is no sure method of enforcement for Road Maintenance agreements. Very few plats’ CCRs contain a sure remedy to force a property owner to participate in payment for road maintenance if they choose not to.
• Ahl – Asked if Depee is suggesting it might be in the public’s best interest to require the County to maintain the roads.

Depee – Thinks it should be left to free market to make that decision. In some cases it cost more to seek legal relief from the one property owner who refuses to participate than for the remaining lot owners to get together and fix the road.

• Monty Mahan – The wording does not clearly state that a Homeowners’ Association is not required if developing to County Road standards. If the language was clearer stating that if developing to County Road Standards, a Homeowners’ Association is not necessary, would that satisfy Depee’s concerns?

Depee – Yes, it should not be a requirement, it should take its own course in accordance with how a developer plans the plat, given the make-up of the property.

• Gustavson – County is mostly concerned with fire and police access. If road is accessible to local residence’s vehicles, then it is likely fire and police are able to access the homes within the plat also.

Depee – Not addressing safety issues today; only requirements for the access tracts.

Chair M. Flynn closed the public testimony portion of the hearing.

E. Baker – The Home Owners’ Association is basically listed for the lot owners who opt out but HOAs are not always active. The concern is that since these will be private access tracts, owned in perpetuity, someone is in charge of maintenance and liability for problems on the tracts. Thus, requiring a HOA seems necessary as an entity in the event of any grievances as a mechanism that will expand and shrink as areas of interest surface. The County would just want a HOA in place to address specific common issues of interest to lot owners within the plat. The County has no interest in regulating CCRs or HOA, and this provision is only intended to address road maintenance of the access tracts and nothing more.
• Lary Coppola – Two years ago in 2003, the Planning Commission twice directed County staff to mandate that telecommunication infrastructure be included. Questioned why this issue is not addressed in the current draft language.

E. Baker – Agreed it is not in the document but if the Planning Commission as a body wants this provision added, staff will do so.

• Ahl – For the record, reminded Planning Commission members that the Planning Commission does not direct DCD staff; instead, its mission is to support DCD staff and to provide whatever recommendations it feels will create better regulations.

E. Baker – Staff acknowledges that there is a wide variety of other changes that could be made to this document. One of the Planning Commissioner’s directions was that this ordinance would relate to development of five to nine dwelling units and to concentrate on that. Also, relative to the “protection of morals” verbiage referenced by Ms Henderson, Baker noted that anything in standard text with underlines and strikeouts is from a previous Code iteration. Staff did not change the old language in any way, only worked with new language. Staff needs to go through the entire subdivision code, large lots, plats and short subdivisions, to get all definitions to match up and remove duplicative language. This process is currently underway and the first draft will hopefully be completed by year’s end.

• Jenniges – Asked if the HOA issue could be resolved by stating “may” instead of “is” required. Questioned the County’s intent.

E. Baker – This goes to John Ahl’s comment about if opting out is an option, what mechanism is there then to maintain the road for access into the plat. Requiring HOAs and CCRs is the County’s attempt to help address the lack of participation on the part of some homeowners’ within plats, for the protection of all.

• John Taylor – Commented in reference to HOA and CCRs. In recent years according to various court decisions, any plat with CCRs, attorneys will advice clients that they need to have a HOA as a separate non-profit corporation registered with the
State of Washington, otherwise individual homeowners can be
sued. Therefore the HOA requirement is included to protect
individual homeowners from being sued. In today’s world, if a
plat has CCRs it should also have a HOA.

- Gustavson – This discussion is about private property and
  asked if the County has the authority to regulate private dirt.

Discussion continued regarding: 1) Road Maintenance Agreements
as they relate to the County’s authority over fire access, pedestrian
access, etc.; 2) Whether DCD should weigh in all of issues impacting
every home in a plat or subdivision for life safety and public welfare;
3) Should Road Maintenance Agreements, CCRs HOA, be required,
mandated, conditioned or be a personal choice; 4) These issues also
deal with liability and community involvement; 5) County guidelines
for HOAs and CCRs; and 6) Buffers being in Code changes at end of
year.

- Taylor – The other option for the private property owner is that
  the only thing being required by the County is a Road
  Maintenance Agreement. If the plat is developed with a Road
  Maintenance Agreement then that is all that is required.

- Gustavson – Questioned if just requiring a Road Maintenance
  Agreement is all that is needed.

- Taylor – Believes this would suffice but that is not what staff is
  proposing.

- Deborah Flynn – Asked for clarification of difference between a
  Road Maintenance Agreement and CCRs for purposes of
  maintaining an access.

E. Baker – These are very similar in nature. Road Maintenance
Agreements are factored into CCRs. The key issue here for staff is
that a HOA will exist because the Road Maintenance Agreement is
hanging out without any type of entity in charge of the maintenance.
Without the Agreement through a HOA and CCRs, a homeowner is
basically forced to approach his/her neighbor for payment of
maintenance projects. Also, the discussion involves paved, not
gravel roads, necessitating a higher maintenance cost. It is
important from staff’s perspective that an entity be in place to protect liability and to deal with these issues on a development-wide level.

- Jenniges – Asked if the County institutes guidelines for HOAs or what their by-laws and CCRs will be and was told it does not. This is left up to the developer.

- D. Flynn – Questioned her email comments submitted prior to the March 8 Planning Commission work/study, one in particular relating to buffers.

E. Baker – Flynn’s comments were well noted and will be taken into account when the revisions are made to Title 16 to improve consistency.

- Gustavson – Since three Planning Commission members were absent from the March 8, work/study, he wondered when would be the appropriate time to address numerous issues.

- Chair M. Flynn – During the deliberation portion of the public hearing.

- Taylor – Expressed appreciation to the staff and stakeholder group who spent a significant amount of time on the proposed changes to this ordinance. Coppola also agreed. He felt the latest draft was a great improvement from the previous document reviewed by the Planning Commission.

BREAK

E. Baker – Addressed code amendments to resolve issues with development in rural Kitsap County. Before giving brief overviews of the various Code amendments, he stated that following the previous work/study discussion, the Code amendment addressing electronic reader boards was removed from the list. It was determined that other sections of the Code already speak to this issue. Repetitive and inconsistent language could result from revisiting this issue through the Planning Commission process.

1. Removal of 2:1 Lot ratio from Rural Zones. In rural areas of the County, there is a 2 to 1 lot ratio requirement. This lot
ratio requirement indicates that any newly created or
reconfigured lot must be twice as long as deep, or twice as
deep as long. The intent was to protect rural character. In
application, it is a very difficult ratio to apply when factoring
in critical areas, topography, etc. Example: a property
owner has 27 acres in a five acre density zone, but cannot
divide into three parcels because of two major slopes on the
property and therefore it does not meet the 2:1 ratio. This
ratio works well on a flat piece of square land, but with other
problems factored in, it causes many problems not
anticipated when originally drafted. Staff reviewed other
codes as well as Kitsap County’s old code and found an
alternative approach to address the rural character. This is
to return to a known lot width and depth of 140 feet each.
This was in place from 1983 to 1995 in rural zones, basically
in any lot creation or reconfiguration of a lot. It allows a
property owner to go down to 140 feet thus providing for a
wide variety of other configurations to work with critical
areas and topography. This change is made to all rural
zoning, from Forest Resource Lands through Urban Reserve.

2. Urban Low Minimum Lot Width – This is one of two changes
being made due to the overly broad changes made in relation
to the ULID-6 Subarea Plan. This subarea plan reduced the
minimum lot width for properties within its boundary to 40
feet from 60 feet. Unfortunately, this was intended to apply
only within the ULID-6 Subarea boundaries, but inadvertently
applied in the Code, countywide. Staff recommends this be
returned to 60 feet countywide, with 40 feet being the
minimum within the ULID-6 Subarea boundaries; the original
intent.

3. View Blockage Process Regulations – On Kitsap County
shorelines, construction cannot take place forward from a
view blockage line based on location of surrounding homes.
To build beyond this line, a property owner must apply for a
Conditional Waiver. The original view blockage regulations
crafted in the 1970s and early 1980s, pre-dated the Hearing
Examiner process making the Board of County
Commissioners the initial hearing body for all Conditional
Waivers. At that time, Board public meetings and hearings
were held weekly as opposed to current practice of twice a month. This has created significant delays for permit processing. A permit cannot be approved until this situation can be addressed. Set criteria are involved for approval or non-approval of a Conditional Waiver. In order to avoid delays in processing these waivers, the Department is now recommending this be changed to a Type II decision. This includes notification to applicant and surrounding neighbors within 400 feet, followed by additional notification when the Department makes its decision either for or against the waiver. A 14 days appeal period to the Hearing Examiner follows. Once the Examiner makes his determination, his decision can then be appealed to the Board of County Commissioners. The Board is still in the loop, but further on in the process. In 2004-05, ten View Blockage Conditional Waivers were processed; of these ten, most had no view blockage impact one way or the other. There are still those that do have an impact and have a right to have their applications processed in a timely manner. Staff believes the Hearing Examiner process which is used in most all other land use issues, is a much better process for the citizens benefit.

4. Soil-Combining and Composting in Rural Areas – This fits in tandem with the stump grinding issue the Planning Commission had before them in 2003. As burn bans have been imposed in most UGAs, it has become difficult to dispose of clearing materials and vegetation. The County does not have many places for these materials to be deposited. The proposed regulations would allow for soil combining and composting taking place in a number of zones in Kitsap County as well as Rural Protection and Rural Residential zones. Conducting this activity in these two zones would come with a series of design criteria. The criteria would include: properties must be greater than 2 ½ acres in size; use must take direct access off a County maintained roadway; a 100 foot natural vegetation buffer must be maintained around the perimeter; and all other conditions of the Code Title must be met. These conditions are intended to mitigate any potential impacts to neighboring properties as this activity is proposed to be held in
predominantly rural residential areas. Staff wants to allow
these types of uses where appropriate while limiting them in
areas where they are not appropriate.

5. **Multiple Front Yard Setbacks** – This is another situation
   similar to the 2:1 ratio. Staff is experiencing a number of
   issues where development is being hampered by the
   property owner having more than one front yard. Front yard
   is defined as the property line that abuts an easement, right-
   of-way, access tract, or something of that nature. Some
   properties can have as many as three or four. Front yards
   come with a larger setback than side or rear property lines.
   In rural areas it is 50 feet, in urban areas, 20 feet. Front yard
   setbacks are met to deal with access issues; driving onto
   yards, parking, etc. With the additional front yards, there
   needs to be a mechanism to minimize the setbacks as this
does not meet the intent. Staff is proposing reducing the 50
   feet in rural to 20 feet and in urban, from 20 to 5 feet. There
   are several impacts that would preclude wanting to make
   these changes. An example would be if the additional front
   yard is not being used for access but is abutting a County
   arterial or collectors. It would not be in the property owner’s
   or the County’s best interest to reduce setbacks along, for
   instances, Fairgrounds road due to heavy traffic and the
   need to possibly widen or improve the road in the near
   future. Additionally, such reductions shall have no adverse
   impacts to surrounding properties. This should provide
   flexibility for property owners working with critical areas and
difficult topography. The issues are truly the most difficult
issues facing staff today when working with developers to
develop their properties. If staff has the ability to reduce
critical area buffers, it should also have the ability to reduce
setback issues to assist in facilitating development of
difficult lots.

6. **Lot Requirements for Single-Family Residential Development**
in Urban Medium Zones  This is another ULID-6 change.
ULID-6 Subarea Plan removed all lot requirements, setbacks,
etc. since there was a set of design criteria accompanying
development within the ULID-6 Subarea. This however was
not met to be countywide but a change was made to the
County Code that affected Urban Medium Zones in the entire county. This has a significant affect on single family development. The Urban Medium Zone is predominantly met for multi-family. It is possible to develop single family units, allowing single family or duplexes in these areas. Multi-family development, however, allows for apartment complexes, condominiums, etc. with a series of fire codes that are met to mitigate the fact that multi families have no setbacks from certain property lines. Single family construction need setbacks for fire access to the rear of a property to enable fire vehicles to access the entire property and to provide fire separation between uses. Additionally, there are lot size necessities for single families that do not exist for multi-family dwellings. The proposed language in this Code amendment would re-instate requirements for single-family development in an Urban Medium Zone while still allowing multi-family dwellings to go without the setback requirements.

Chair M. Flynn opened the public testimony portion of this public hearing.

Fred Depee – Suggested a language change on the first item, i.e., removal of the 2:1 from Rural Zones. Depee asked that the minimum lot acreage size be inserted for consistency throughout. Minimum lot areas in this case should be 40 acres for newly created lots. Minimum lot depths should apply to all lots. This is the key since it is interpretational. He reads this to say “Minimum lot area for newly created lots.” His point is to incorporate Baker’s language and have it state, “Minimum lot area shall be for whatever size acreage for reconfigured and newly created lots. Wants to have existing properties, not newly created, to also have the same flexibility applied to them. An example: a property having 4 lots with a stream running through the middle. Main point: Baker may not always be with the County and this Code section is left up to interpretation by any staff member. Again, asking that newly created and reconfigured be added. The next issue Depee addressed was the Urban Low minimum lot width. When ULID-6 approved this, it changed the configuration for all existing lots. The question: is 40 feet acceptable width for a buildable lot. Staff believes it is. He questions why preferential treatment is given to one area is of concern to Depee.
Questioned why 40 to 60 feet would be more acceptable. Additionally, 40 feet cuts the footprint down to a townhouse, side entries, two-story structures and single-car garages. 50 feet is very conducive to not only two stories but small ramblers as well. 60 feet gives a pad space that is more accommodating to current market demand, rambler homes. Depee asked the Planning Commission to leave the language in the Code the same and not allow preferential treatment to ULID-6, McCormick Woods, and questioned the intent of GMA to place population in urban areas and preserve the rural lands. Unclear why staff wants to change to larger lots. Purpose should be condensing lot sizes. If 60 feet is maintained, it limits options. He noted this is within sewer boundaries.

- Coppola – If the lot size is reduced to 40 feet countywide, questioned if this does not once again become a staff interpretation. Currently, you can have a minimum of 40 but can make it 60 feet if desired. However, if in ten years staff completely changes and declares that 40 feet is the limit, there is no interpretation available. He wants to see language to removes ability to interpretation.

Vivian Henderson, representing KAPO, does not see the phrase rural character in the language yet it is in everything. This is another “feel good” terms she would like to see eliminated. Everyone has a different vision of rural character definition.

View Blockage – Disagrees with using the Board of County Commissioners’ schedule as an excuse to make a change. This does not meet the test of validity.

Page 7 – Asked if the soil combining and composting is for commercial use and was told it is. Asked to be shown the section addressing distinction between commercial and private land owner conducting this activity. Also page 5 under proposed action, it references a Condition Use that to her knowledge, requires a public hearing.

Multiple front yard setbacks – Asked if government intended to eventually regulate every inch of private property. Each of the Code amendments calls for more government oversight.
Chair M. Flynn closed the public comment portion of the public hearing.

- Taylor – Asked what property the soil combining or composting applies to.

E. Baker – Used Emu Topsoil off Port Gamble Road as an example. It is basically a commercial facility where all citizens can bring their materials to drop off for proper handling. The use table in the draft document, titled “other uses” could be clarified per Ms Henderson’s comments. The table is taken from rural hence can be confusing.

- D. Flynn – Regarding the lot table for Urban Low, asked what requirements are for Urban Medium. Wants to make sure there is a distinction between Urban Medium and Urban low relative to lot width.

E. Baker – Referenced page 7 stating that at this time, there is no lot sizes for Urban Medium. Staff is recommending that single family units in Urban Medium be identical to Urban Low, as it was previously regulated. 40 foot lot widths are allowed through Performance-Based Developments, the old PUD option. Design standards are incorporated in ULID-6 that he doesn’t believe the public would want to see applied in Urban Low zones.

- Gustavson – Questioned if design standards are necessary in developing a few lots. ULID-6, McCormick Woods, is a huge development. Thinks it will not benefit anyone and will drive up the cost for small developments.

E. Baker – When getting down to 40-foot lot sizes, parking problems will increase because densities are increased and on-street parking possibilities are decreased. Parking is also addressed elsewhere in the Code. An example: a specific number of parking spaces are required for a single family unity. (two spots). This will address families with three or more cars per residence.

- Coppola – Would still like to see language to disallow this section of the Code not being open to interpretation. Relative to view blockage, concurred with Ms Henderson that the Board of County Commissioners needs to make the decision on this
issue. Gave example of problem currently under way in Manchester.

E. Baker – Did not intend to make the Board of County Commissioners’ public hearing schedule the primary motivation for the recommended change. The Conditional Waiver is the only land use process that still goes before the Board of County Commissioners first. Other large permitting processes such as Harrison Hospital go before the Hearing Examiner first. The Type II process also provides for more notification to neighbors. This would not apply to the Manchester example, this is only for shoreline lots. The Manchester example is associated with the Manchester height requirements and is an administrative decision that due to building permit and Land Use Procedures Act (LUPA) laws created an inability for an appeal mechanism. This will be addressed by staff in future Code changes near the end of the year.

- Ahl – Asked about lot width requirements in Suquamish.

E. Baker – Suquamish has minimum lot sizes, much like Manchester with 8,700 square feet to aggregate down.

- Ahl – Asked staff to check on Suquamish regulations to determine how their regulations dovetail and if it is germane to this issue. **

E. Baker – Thought Suquamish was related to storm water drainage.

- Gustavson – Read a court case stating that what you own is not subject to a neighbor’s overview. This was addressed on the dock permit on Beach Drive. Suggested if someone does not like what a neighbor does with his property, this constitutes the desire to control that which does not belong to you. Thinks the view blockage issue might fall under the same purview.

E. Baker – The State statute that Kitsap County’s Shoreline Master Program (SMP) is based on with the view blockage being piggybacked off of this, indicates that the County and other jurisdictions are responsible for views of shoreline property owners. He will review specific citations referenced by Gustavson as a
substantive change vs. a process change to the View Blockage regulations. **

- Taylor – Noticed a typographical error under 17.45.0. Should say administrative instead of ministerial.

Monty Mahan left at 10:05 AM.

New Business:

John Ahl distributed a draft Retreat Agenda and requested comments be submitted no later than April 1st. Also, Holly Anderson provided him with a copy of the previous retreat agenda. He offered copies to anyone interested.

E. Baker—Noted next public hearing to be April 12, to take testimony on the Updated Land Capacity Analysis (ULCA). Staff would like to bring this forward to Planning Commission and asked if the Planning Commission would like to have a work/study session prior to the public hearing on April 12. Staff is looking for a recommendation on the ULCA at the April 12 public hearing.

- Coppola – suggested a Planning Commission meeting prior to the April 12 public hearing. The Planning Commission needs to expedite its recommendation to the Board of County Commissioners as soon as possible.

- Gustavson — Supports option #5 presented by Byron Harris.

- D. Flynn – Not sure the County has the option of adopting Harris’ approach. Also thinks an additional work/study session is unnecessary since the Planning Commission has heard the presentation on ULCA at least three times.

Discussion was held between Planning Commission members about whether or not they need a work/study prior to the April 12 public hearing. Baker will determine if the Harris option can be adopted by the County. ** He also will define the Planning Commission’s roll in
the ULCA process.** It is important that the Planning Commission decides on a more specific option instead of several options as proposed.

E. Baker - Explained the need for Planning Commission involvement, stating there are a number of options to be presented to the Board of County Commissioners. The Board needs the Planning Commission’s assistance as it moves forward with a decision. DCD will most likely compile its major recommended option. The County has employed a consultant, Mark Personius. A question was asked if a free analysis has a greater/lesser importance that a paid consultant.

It was determined that there would be no work/study prior to the April 12 public hearing. The Planning Commission unanimously agreed.

11:20 AM – No further business being heard, a motion was made by Lary Coppola and seconded by John Ahl that the meeting be adjourned. Motion carried.

<table>
<thead>
<tr>
<th>Exhibit No.</th>
<th>Description</th>
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<tbody>
<tr>
<td>A.</td>
<td>March 22, 2005 Agenda</td>
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<tr>
<td>B.</td>
<td>March 22, 2005 Legal Notice</td>
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<tr>
<td>C.</td>
<td>Draft Short Subdivision Ordinance</td>
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<tr>
<td>D.</td>
<td>Draft Proposed Kitsap County Code Amendments</td>
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<tr>
<td>E.</td>
<td>Email note from Tom Nevins – will not be attending the Mar. 22, 2005 public hearing</td>
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<tr>
<td>F.</td>
<td>Email note from Ian and Shelly Laughlin, dated March 7, 2005, regarding View Blockage Code change</td>
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<tr>
<td>G.</td>
<td>Email note from Ian and Shelly Laughlin, dated March 7, 2005, regarding View Blockage Code change</td>
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<tr>
<td>H.</td>
<td>Email note from Eric Baker to Chris Endresen, Cindy Baker and Ian and Shelly Laughlin, dated March 8, 2005, regarding View Blockage Code change</td>
</tr>
<tr>
<td>I.</td>
<td>Email note from Mark Flynn to Holly Anderson regarding Planning Commission retreat and</td>
</tr>
</tbody>
</table>
1. joint meeting with the Board of County Commissioners

2. J. Sign-in sheet for the Planning Commission March 22, 2005 public hearing

3. K. Draft retreat agenda prepared by John Ahl for distribution to Planning Commission members and Board of County Commissioners for comments (Holly Anderson reformatted the document and sent it out to each member plus the Board of County Commissioners for review and comments)

4. L. Vivian Henderson's hand-out giving definition of moral

5. M. Vivian Henderson's hand-out - US Supreme Court Collection, Dolan v City of Tigard

6. N. Vivian Henderson's hand-out - Protection of Critical Areas and the Mythology of Buffers By Alexander W. (Sandy) Machie

7. O. Deborah Flynn's hand-out - Newspaper article “Only thing developed by Measure 37 is a headache” published March 6, 2005, The Oregonian


Minutes approved this _____ day of ________________, 2005.

___________________________________
Mark Flynn, Chair

_______________________________
Holly Anderson, Secretary