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**MINUTES**  
**KITSAP COUNTY PLANNING COMMISSION**  
**PUBLIC HEARING**  
**November 1, 2005**

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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: John Taylor, Frank Mahaffay, Dean Jenniges, Lary Coppola and Mike Gustavson. Members not present: John Ahl, Tom Nevins, Deborah Flynn, and Chair Monty Mahan. Staff Present: Patty Charnas, Dave Greetham, Eric Baker and acting Planning Commission Secretary Brynan Pierce.

DRAFT  
12:55 PM

A motion was made to appoint John Taylor as Acting Chair. The vote was unanimous amongst the members present.

A. Acting Chair John Taylor called the meeting to Order and introduced the Planning Commission members present.

B. Work/Study

Discussion and review of the second draft of the Critical Areas Ordinance

- Lary Coppola – Passes
- Acting Chair John Taylor – Passes
- A motion was made by Michael Gustavson and seconded by Frank Mahaffay that because the Planning Commission was not scheduled for six work/study sessions in 2005, a violation of the Rules and Procedures as spelled out in said document as well as the Washington Administrative Code (WAC), the public never had a chance for a back and forth debate on the merits of the draft Critical Area Ordinance, the Planning Commission shall continue deliberations until finished.

- 1 • **Gustavson – It is a matter of using what is already in the WAC**  
2 **and applying it.**

- 3  
4 • **Dean Jenniges - One of the biggest problems is that after**  
5 **listening to public testimony, people still do not understand**  
6 **about water quality. A matrix needs to be drafted to see if the**  
7 **ordinance is working or not.**

8  
9 **THE VOTE: Yes - John Taylor, Frank Mahaffay, Dean Jenniges,**  
10 **Lary Coppola and Mike Gustavson; No – None. Motion carried.**

11  
12 **A motion was made by Dean Jenniges and seconded by Michael**  
13 **Gustavson to incorporate site specific scientific methods of**  
14 **measurements of water quality and species population into the**  
15 **Critical Area Ordinance prior to establishing site specific restrictions**  
16 **on land parcels.**

- 17  
18 • **Jenniges – On page 42, Section B, he suggested adding that**  
19 **existing roads and developments are considered grandfathered**  
20 **prior to acceptance of this document.**

21  
22 **THE VOTE: Yes - John Taylor, Frank Mahaffay, Dean Jenniges, Lary**  
23 **Coppola and Mike Gustavson; No – None. Motion carried.**

24  
25 **A motion was made by Frank Mahaffay and seconded by Michael**  
26 **Gustavson that on page 36, line 19, there be a list of species listed.**

27  
28 **THE VOTE: Yes - John Taylor, Frank Mahaffay, Dean Jenniges, Lary**  
29 **Coppola and Mike Gustavson; No – None. Motion carried.**

- 30  
31 • **Gustavson – If there is a problem, this issue can be re-**  
32 **addressed later in the day.**

33  
34 **E. Baker: Cindy Baker requested that if there is science to back up a**  
35 **motion, it would be brought forward.**

- 36  
37 • **Mahaffay – The Planning Commission is not obligated to do**  
38 **this.**

39

1 A motion was made by Michael Gustavson and seconded by Frank  
2 Mahaffay that on page 60, after Section N an additional paragraph be  
3 added addressing requirements for re-percolation installations.  
4

- 5 • Mahaffay – Would not disagree with the Public Works aspect of  
6 the draft CAO. He also does not agree with adding laws to laws  
7 that are already in place. This can be very expensive and the  
8 stormwater system was \$170,000 dollars.  
9
- 10 • Gustavson – Observed that low impact development is not  
11 anywhere in the document. The County is directing that  
12 stormwater be allowed back into the bay.  
13
- 14 • Dean Jenniges - Understands what Gustavson means when it is  
15 so expensive to do this and the stormwater management  
16 ordinance needs to be changed.  
17

18 Greetham - The Stormwater Manual guides cover it. It is correct that  
19 staff is working on a low impact development ordinance.  
20

- 21 • Gustavson – Expressed his concern about water. Chemical  
22 pollution and stormwater are two big issues.  
23

24 Greetham – Soils types vary in different parts of the county.  
25

- 26 • Jenniges - Asked why the County does not allow dry wells.  
27

28 Greetham - There are a lot of them on single family lots.  
29

- 30 • Gustavson - Withdrew his motion.  
31

32 A motion was made by Mike Gustavson and seconded by Lary  
33 Coppola that on page 5, a new Section H be added stating that “this  
34 ordinance applies both inside and outside Urban Growth Areas.”  
35

36 When Jenniges asked what benefit this would provide Gustavson  
37 said clarification and Jenniges asked him clarification to what.  
38 Gustavson said that Snohomish County separated these out.  
39

- 40 • Coppola - If there was a third draft this stipulation could have  
41 easily been inserted.

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- Mahaffay – Asked if this applies to the critical areas and Greetham said it is covered.
- Taylor – Reminded all that the ordinance is for the entire county.
- Gustavson - Withdrew his motion.

A motion was made by Dean Jenniges that Pages 46, line 47 and page 47, line 5, read as though the land owner has to pay for everything and thought the draft should address what happens if the county has to pay instead.

- Mahaffay –The County will just raise the permit prices.

Dean Jenniges withdrew his motion.

A motion was made by Dean Jenniges and seconded by Michael Gustavson that page 46; line 38 should be changed to read, “. . . Check paper.”

- Gustavson - Amended the motion to also delete the word “shorter.”

THE VOTE: Yes – 5; No – 0. Motion carried.

- Coppola –Line 26, he would like to know about a species list to which Greetham replied there was one in the binder.
- Coppola - Line 18, page 26, he asked who proposes species and Greetham replied it is the Washington State Department of Fish and Wildlife (DOFW).
- Mahaffay – Questioned where the definition was for the word “grubbing” on page 23.

Greetham – It is not defined.

- Mahaffay - Page 26, line 15, he said when there was a change in the bear hunting regulations, the definition is left open.

1 A motion was made by Frank Mahaffay to add “state of federally  
2 listed species” to this section.

3  
4 Greetham – Mahaffay had previously removed that whole section.

- 5  
6 • Mahaffay – Withdrew his motion.

7  
8 A motion was made by Mike Gustavson and seconded by Frank  
9 Mahaffay that on page 6, line 26, the entire paragraph be deleted.

- 10  
11 • Mahaffay – Wondered if you delete that can you delete  
12 Administrative functions.  
13  
14 • Gustavson: Asked if the language could be changed to reduce  
15 and he offered a friendly amendment to remove “adjust the  
16 standards for” and insert “reduce.”

17  
18 THE VOTE: Yes – John Taylor, Frank Mahaffay, Dean Jenniges, Lary  
19 Copolla and Michael Gustavson; No – 0. Motion carried.

- 20  
21 • Jenniges - passes  
22  
23 • Coppola - Page 29, line 10, asked why this does not apply and  
24 who decides what notice is given to the property owner.

25  
26 Greetham – This allows for flexibility for single family residences.  
27 The owner would be notified when the application is received by the  
28 Department.

- 29  
30 • Coppola – Asked if the owner would not be notified until the  
31 property was sold and was told yes, this is the case.  
32  
33 • Jenniges – Asked whether the seller is obligated to inform the  
34 purchaser.  
35  
36 • Mahaffay - The RCWs state the issue is to be disclosed.  
37  
38 • Taylor - It comes down to “Buyer Beware.”

39  
40 A motion was made by Mike Gustavson and seconded by Frank  
41 Mahaffay to delete the second sentence.

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- Mahaffay - If deleted, would that not eliminate the potential for notification to single family residences?

Greetham - It does not change the meaning.

THE VOTE: Yes - John Taylor, Frank Mahaffay, Dean Jenniges, Lary Coppola and Mike Gustavson; No – 0. Motion carried.

A motion was made by Frank Mahaffay and seconded by Michael Gustavson that wetlands be defined on Page 29, line 27. Gustavson added “in excess of 10 cubic yards.”

THE VOTE: Yes - John Taylor, Frank Mahaffay, Dean Jenniges, Lary Coppola and Mike Gustavson; No – 0. Motion carried.

A motion was made by Frank Mahaffay and seconded by Michael Gustavson that the words “strict” and “all” under Reasonable Use be deleted on page 20, lines 41 and 43.

THE VOTE: Yes - John Taylor, Frank Mahaffay, Dean Jenniges, Lary Coppola and Mike Gustavson; No – 0. Motion carried.

A motion was made by Mike Gustavson and seconded by Frank Mahaffay to add a definition to Category Compensation on page 25 and insert the new language on line 28. He got this idea from Breadbeard.

- Taylor: When asking who then would own the forest, Gustavson replied it would be the property owner.

Greetham - that is also called preservation. That discussion has been bounced around a lot.

THE VOTE: Yes - John Taylor, Frank Mahaffay, Dean Jenniges, Lary Coppola and Michael Gustavson; No – 0. Motion carried.

A motion was made by Michael Gustavson and seconded by Frank Mahaffay to change the language on page 26 line 3 regarding mitigation of land locked properties.

- 1 • Mahaffay – Asked how this applies.

2

- 3 • Jenniges - it was his understanding that property in Kitsap  
4 County cannot be land locked.

5

- 6 • Gustavson - Back to line 3, page 26, he wondered how you can  
7 access your property by crossing someone else's and was told  
8 by Greetham it is accomplished via a purchased easement on  
9 the adjoining property.

10

- 11 • Mahaffay - If the other neighboring property owner does not  
12 want an easement then it will have to go to court.

13

14 THE VOTE: Yes - John Taylor, Frank Mahaffay, Dean Jenniges, Lary  
15 Coppola and Mike Gustavson; No- 0. Motion carried.

16

- 17 • Gustavson- Next change is on page 33. He suggested adding  
18 an additional sentence on line 43, Section H but Greetham said  
19 this reference is already in the Stormwater Management  
20 Manual.

21

22 A motion was made by Michael Gustavson and seconded by Lary  
23 Coppola that page 34, Section 220.B define base buffer width and  
24 that Table B define standard buffer width. Gustavson asked if  
25 standard and base mean the same thing and Greetham said no. The  
26 standard is whatever the buffer would be then averaged.

27

- 28 • Mahaffay- until the ordinance is approved the Department of  
29 Community Development has to submit the Planning  
30 Commission's recommendations.

31

- 32 • Coppola – Asked if there would be a third draft and E. Baker no,  
33 there will be 2 drafts.

34

35 THE VOTE: Yes - John Taylor, Frank Mahaffay, Dean Jenniges, Lary  
36 Coppola and Mike Gustavson; No – 0. Motion carried.

37

38 E. Baker – Asked if the Planning Commission wanted this change  
39 reflected in the definitions section and all members present agreed  
40 with this.

41

1 A motion was made by Michael Gustavson and seconded by Lary  
2 Coppola to bring Tables 1 and 2, page 34, in line with DOE's volume I  
3 recommendations and to replace the Wetlands section.

4  
5 Jenniges – Offered a friendly amendment, seconded by Michael  
6 Gustavson by going back to the original volumes, recommending  
7 that the Planning Commission utilize the original wetlands section  
8 and eliminate the current one found in the second draft.

9  
10 Jenniges – Thought the first one was easier to read.

11  
12 Greetham – The DOE makes the state's overlying decisions which  
13 gets back to the base buffer section. The main change is the onsite  
14 flexibility. It is much more site specific.

15  
16 Greetham - The original one has a base buffer.

- 17  
18 • Gustavson - The problem he has with the DOE is the  
19 complexity. As a property owner, he was asked to pay or have it  
20 for free; he would naturally go for free.

21  
22 Greetham –Tried to reach Robbyn Myers by phone to clarify.

- 23  
24 • Gustavson – Said they could wait on it.

25  
26 Mahaffay – Felt the additional costs from A. J. Breadbard was a cash  
27 cow for him.

28  
29 Taylor – Asked what happens after a change is made and  
30 implemented.

- 31  
32 • Mahaffay: There will always be vocal groups that do not want  
33 this. Costs of homes have gone up and profits to builders have  
34 decreased. Kitsap County does not have affordable housing in  
35 relation to income.

36  
37 THE VOTE: Yes – John Taylor, Frank Mahaffay, Dean Jenniges, Lary  
38 Coppola and Mike Gustavson; No- 0. Motion carried.

- 39  
40 • Jenniges – Would like to see to real affordable housing happen.

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- Taylor- Does not like to remove flexibility.
- Gustavson - This is not a well crafted section on wetlands.

A motion was made by Michael Gustavson and seconded by Dean Jenniges that on page 54, line 46, part of No. 6 be deleted and the following inserted: “determined by a geo-tech engineer.”

E. Baker - This would be necessary if building against a slope. If building 40 feet beyond a ravine you need a Geo-tech review.

Greetham - this was intended for stream situations. In general reports state slopes can be climbed.

- Jenniges - If you could see what happened at Lake Symington, a man’s house was condemned.

Michael Gustavson withdrew his motion.

A motion was made by Michael Gustavson and seconded by Lary Coppola to delete the paragraph at line 22, page 57.

THE VOTE: Yes - John Taylor, Frank Mahaffay, Dean Jenniges, Lary Coppola and Mike Gustavson; No – 0. Motion carried.

- Gustavson –Not interested in discussing open spaces.

Greetham - The original intent was to leave the choice to the developers. This open space can go either way.

- Gustavson – Withdrew his motion.

A motion was made by Michel Gustavson and seconded by Frank Mahaffay that on page 60, line 4, and the word “may” be changed to “shall.”

THE VOTE: Yes - John Taylor, Frank Mahaffay, Dean Jenniges, Lary Coppola and Mike Gustavson; No – 0. Motion carried.

1 A motion was made by Michael Gustavson and seconded by Dean  
2 Jenniges that on page 62, beginning with line 40, add on line 45,  
3 “consideration should be given to tall trees being blown over.”

4  
5 Mike Gustavson has trees that may fall in his yard. Different  
6 situations are different for other people.

7  
8 Dean Jenniges does not want government to be on the property of  
9 land owners. It is contradictory to what has been stated before.

10  
11 A motion was made by Michael Gustavson and seconded by Frank  
12 Mahaffay that on page 64, line 4, the words “to civil geotechnical  
13 engineer.” Be inserted.

- 14  
15 • Frank Mahaffay offered a friendly amendment to omit the word  
16 civil.”

17  
18 THE VOTE: Yes - John Taylor, Frank Mahaffay, Dean Jenniges, Lary  
19 Coppola and Mike Gustavson; No – 0. Motion carried.

20  
21 A motion was made by Michael Gustavson to replace Section  
22 Coppola, line 32 on page 71, with new language beginning with “the  
23 applicant may remove. . .”

24  
25 Gustavson withdrew his motion.

26  
27 A generic motion was made by Michael Gustavson and seconded by  
28 Lary Coppola that language be added in Section 100 to state that in  
29 Kitsap County, the Critical Area Ordinance include a review to  
30 determine the impact to mitigation relative to buffers and a  
31 determination as to whether Nexus can be shown. This would apply  
32 in relationship to other county regulations.

- 33  
34 • Gustavson – Where there is an impact to the land because of  
35 buffers due to the mitigation, the land speaks first. He  
36 recommended that if the motion passes, it be addressed under  
37 H throughout this document whenever Nexus and  
38 proportionality applies. Mitigation must match the impact.

39  
40 THE VOTE: Yes - John Taylor, Frank Mahaffay, Dean Jenniges, Lary  
41 Coppola and Mike Gustavson; No – 0. Motion carried.

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A motion was made by Michael Gustavson and seconded by Lary Coppola that the wording on page 4, line 26 be changed to read, “preserve natural flood control by preserving wetland.”

Gustavson withdrew his motion.

A motion was made by Michael Gustavson and seconded by Lary Coppola that lines 31 and 32 on page 6 be deleted.

- Mahaffay – Thought that when staff makes its presentation, to both the Planning Commission and the Board of County Commissioners, they put extra emphasis on draft 2.

A motion was made by Frank Mahaffay to direct staff when presenting to the Planning Commission and the Board of County Commissioners that they read from both drafts.

- Jenniges – Would have a problem directing staff. They are going to provide a matrix but he will not direct staff to do so.

E. Baker – County staff will provide both the Planning Commission and the Board of County Commissioners with all the information available.

- Jenniges – Will not vote for Mahaffay’s motion.
- Gustavson – Believed that staff will present both drafts.
- Coppola - Would like to see the Planning Commission present its own draft.
- Taylor: All Planning Commission members have issues with certain sections.
- Gustavson - A better approach might be when the Board of County Commissioners holds its public hearing, the Planning Commission be in attendance and ask questions for clarification at that time. He also thought the Board of County Commissioners should ask the Planning Commission members for clarification.

1 THE VOTE: Yes - John Taylor, Frank Mahaffay, Dean Jenniges, Lary  
2 Coppola and Mike Gustavson; No – 0. Motion carried.

3  
4 A motion was made by Michael Gustavson and seconded by Lary  
5 Coppola that the word “shorter” be deleted from line 40 on page 6.

6  
7 THE VOTE: Yes - John Taylor, Frank Mahaffay, Dean Jenniges, Lary  
8 Coppola and Mike Gustavson; No – 0. Motion carried.

9  
10 A motion was made by Michael Gustavson and seconded by Frank  
11 Mahaffay that Section H on page 8 be reworded by stating that  
12 construction, remodeling or maintenance of existing single-family  
13 residential structures and accessory structures that are located  
14 outside a Puget Sound shoreline flood hazard areas and active  
15 landslide hazard areas, shall be allowed provided that the expansion  
16 of the building footprint does not harm a State listed resident  
17 endangered or threatened species.

18  
19 THE VOTE: Yes - John Taylor, Frank Mahaffay, Dean Jenniges, Lary  
20 Coppola and Mike Gustavson; No – 0. Motion carried

21  
22 A motion was made by Michael Gustavson and seconded by Frank  
23 Mahaffay that a new Section be added to line 16 on page 8 regarding  
24 low impact developments.

- 25  
26 • Mahaffay - The low impact code will cover this.  
27  
28 • Gustavson – Increases heating and cooling costs.

29  
30 Greetham – Examples for this are added on page 79.

- 31  
32 • Gustavson – Asked if it would be appropriate to amend this for  
33 roof vegetation.

34  
35 Gustavson withdrew his motion.

36  
37 A new motion was made by Michael Gustavson and seconded by  
38 Frank Mahaffay to inset the words or vegetative roof.

39  
40

- 1       • Mahaffay – Worried that the owner may not be able to sell it. I  
2       don't think we should recommend failure. You are setting up a  
3       citizen to lose a lot of money.  
4  
5       • Jenniges – Could not see how the motion would off-set habitat.  
6       Technology needs to take care of technology. I don't see how  
7       this would help.

8  
9       **Gustavson withdrew his motion.**

- 10  
11       • Gustavson – Asked staff about waste water systems including  
12       whole building sewage plants.

13  
14       **Greetham - The intent is for less site clearing.**

- 15  
16       • Gustavson: Asked if a home owner had problems with green  
17       roofs, do building rules allow this to happen.

18  
19       **Greetham - The intent is written in the open fashion.**

20  
21       **A motion was made by Michael Gustavson and seconded by Lary  
22       Coppola that the words "public welfare" be deleted from line 24 on  
23       page 9.**

- 24  
25       • Jenniges – Felt this is getting down to the nitpicky stages now.

26  
27       **THE VOTE: Yes - John Taylor, Frank Mahaffay, Dean Jenniges, Lary  
28       Coppola and Mike Gustavson; No – 0. Motion carried.**

29  
30       **A motion was made by Michael Gustavson to insert the wording  
31       "reasonable use as allowed as a minimum, construction of a single-  
32       family dwelling on an otherwise dimensionally acceptable lot" on line  
33       16, Page 10. An amendment would be to put this language into the  
34       definitions section.**

35  
36       **THE VOTE: Yes - John Taylor, Frank Mahaffay, Dean Jenniges, Lary  
37       Coppola and Mike Gustavson; No – 0. Motion carried.**

38  
39       **A motion was made by Michael Gustavson and seconded by Frank  
40       Mahaffay that the words "adjacent to" be deleted from line 6, page 13.**

1 THE VOTE: Yes - John Taylor, Frank Mahaffay, Dean Jenniges, Lary  
2 Coppola and Mike Gustavson; No – 0. Motion carried.

3  
4 A motion was made by Michael Gustavson and seconded by Frank  
5 Mahaffay that Tahuya and Union rivers be inserted on line 37, page  
6 18.

- 7  
8 • Coppola – Asked if this wording change could make the County  
9 liable if a permit was denied to someone in the creek areas.

10  
11 Greetham – If the intent is not clarified, then yes it could. Some of our  
12 rivers are no larger than creeks. He asked the Planning Commission  
13 if it wanted staff to protect creeks and rivers in this section.

- 14  
15 • Taylor – Asked staff if this could be shown in parentheses ( ).

16  
17 Frank Mahaffay seconded the amendment.

- 18  
19 • Jenniges – Asked if this would conflict if there was a channel  
20 migration on their property.

21  
22 THE VOTE on the amendment: Yes - John Taylor, Frank Mahaffay,  
23 Dean Jenniges, Lary Coppola and Mike Gustavson; No – 0. Motion  
24 carried.

25  
26 The Planning Commission members added their appreciation for  
27 Robbyn Myers work on the ordinance.

28  
29 A motion was made by Michel Gustavson and seconded by Frank  
30 Mahaffay that line 42 on page 23 provide separate definitions for  
31 hydrologist and hydro geologists.

32  
33 THE VOTE: Yes - John Taylor, Frank Mahaffay, Dean Jenniges, Lary  
34 Coppola and Mike Gustavson; No – 0. Motion carried.

35  
36 Myers - This section allows for subtenant mitigation. The reason  
37 mitigation is failing is because of ratings.

- 38  
39 • Gustavson-Thinks we should let the County staff learn more  
40 about this.

41

- Jenniges - Public testimony states there is no reason to have a second draft because there were no matrices.

Myers – Disagreed with this statement. Mitigation is progressed in vegetation. As a scientist I am faced with having to approve and release a permit. All of this is documented by the DOE. These are all done by arials. With the new ratings it took her an hour but as you go around a wetland, that 60 minutes is cut down to 20 minutes.

- Mahaffay: Asked Myers if she was doing this when the ordinance does not require her to.

A motion was made by Dean Jenniges and seconded by Frank Mahaffay that in the words “Native plants” the word native should be native or functionally equivalent plants.

THE VOTE: Yes - John Taylor, Frank Mahaffay, Dean Jenniges, Lary Coppola and Mike Gustavson; No – 0. Motion carried.

A motion was made by Frank Mahaffay and seconded by Lary Coppola that the meeting be adjourned.

C. No further business was being heard.

APPROVED AND DATED this \_\_\_\_\_ of \_\_\_\_\_ 2005.

\_\_\_\_\_  
Deb Flynn, Chair

\_\_\_\_\_  
Holly Anderson, Secretary