

# MINUTES

## KITSAP COUNTY PLANNING COMMISSION WORK/STUDY and PUBLIC HEARING May 10, 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: Tom Nevins, Monty Mahan, Michael Gustavson, John Ahl, Lary Coppola, John Taylor, Deborah Flynn and Dean Jenniges. Member Absent: NONE (Chair Mark Flynn resigned his position) Staff Present: Eric Baker, Patty Charnas, Dave Peters, Dave Greetham, Jim Bolger and Planning Commission Secretary Holly Anderson. 11 citizens from the public were in attendance.

**9:00 AM**

- A. Vice Chair Monty Mahan called the meeting to Order and introduced the Planning Commission members present.

Vice Chair Mahan announced that he would be leaving the meeting early at 10:30 AM and that an acting chair needed to be appointed, by consensus, to replace him. Commissioner John Ahl was selected.

**9:05 A.M.**

### Approval of Minutes

- B. April 12, 2005 Minutes

A motion was made by Deborah Flynn and seconded by John Ahl that the Planning Commission minutes of April 12, 2005 be approved. **The Vote: For-7; Abstain-1. Motion carried.**

- C. WORK/STUDY

1. Critical Areas Ordinance (CAO) and Science Support

1 Eric Baker stated that the second draft of the Critical Areas  
2 Ordinance was not yet ready and that since staff has invested so  
3 much time and effort into this document, they want it to be  
4 completely ready prior to public release. Instead, for today a  
5 PowerPoint presentation has been prepared for the Planning  
6 Commission to preview the Critical Areas Ordinance showing the  
7 highlights of the proposed document. Staff intends to release the  
8 Critical Areas Ordinance second draft in one week followed by a  
9 series of work/study sessions with the Planning Commission and  
10 Board of County Commissioners followed by a joint Board of County  
11 Commissioners and Planning Commission public hearing is held. At  
12 least six weeks will be needed to conduct the work/study sessions  
13 prior to the joint public hearing. This will hopefully allow enough  
14 time to respond to questions from the public, the Planning  
15 Commission and the Board of County Commissioners on the Critical  
16 Areas Ordinance.

17  
18 Patty Charnas - Department of Community Development staff,  
19 presented the PowerPoint presentation based on revisions and  
20 updates to the Critical Areas Ordinance second draft. After a full  
21 year's work on the Critical Areas Ordinance revised draft, Charnas  
22 said the presentation today would include an overview of the process  
23 to date plus a summary and highlights of the ordinance's second  
24 draft contents. She began with the process, noting that Kitsap  
25 County is required to review and update its Critical Areas Ordinance.  
26 Kitsap County's five critical areas, as defined in the State Code are:  
27 1) Wetlands, 2) Fish and Wildlife Habitat Conservation Areas, 3)  
28 Geologically Hazardous Areas, 4) Frequently Flooded Areas and 5)  
29 Critical Aquifer Recharge Areas. The review must include  
30 opportunities for public participation and consideration of best  
31 available science. The presentation continued with: 1) A summary  
32 and highlights showing notable changes from the first public draft, 2)  
33 An overview of the cooperative CAO process, 3) An explanation of  
34 the rationale behind buffer requirements, 4) An explanation of the  
35 record of Best Available Science, 5) Major public comments received  
36 on wetlands issue, 6) Wetlands section on flexible buffers, 7) Wetland  
37 single-family dwelling certification, 8) Major public comments  
38 received on fish and wildlife habitat conservation areas, 9) A  
39 summary of buffer widths, 10) Streams and shorelines, buffers and  
40 habitat conservation areas, 11) Steep slopes, frequently flooded  
41 areas and aquifer recharge areas, and 12) the Process for adoption of

1 the final Critical Areas Ordinance. Throughout the presentation,  
2 Charnas emphasized allowance for maximum public participation  
3 and how Best Available Science was included. (COPY OF  
4 COMPLETE POWERPOINT PRESENTATION ATTACHED TO  
5 ORIGINAL MINUTES)

6  
7 Dave Greetham, Department of Community Development staff,  
8 further addressed the Wetland Single-Family Dwelling Certification.  
9 He described it as an option that allows single family occupants, (the  
10 majority of permit review) to obtain a short form report stating they  
11 are outside a wetland or buffer thus allowing them to move more  
12 quickly through the permitting process. This also saves field time for  
13 staff. It will cost the applicant up to \$500. Pierce County is currently  
14 using this process and it is working well. The approval forms stays  
15 with the property thus no further reviews are required. This is  
16 currently just a proposal so it would just be a one-page insert if  
17 approved. This option is only available for properties that must go  
18 through environmental review.

- 19  
20 • John Ahl asked about minimum sized wetlands that do not  
21 require setbacks and Greetham responded that 2500 feet or less  
22 are exempt if maps indicate wetlands nearby. The letter will  
23 address this exemption. He then asked if certification was  
24 required and Greetham responded that there is a society of  
25 wetland professionals that are confirmed by staff and placed on  
26 a list.  
27  
28 • Lary Coppola – questioned if any thought was given to the  
29 County paying the cost for this exemption. Thought it was  
30 similar to the County always “whining” about unfunded  
31 mandates passed on to the County from the State in that the  
32 County is now passing an additional cost to the applicant.

33  
34 Charnas – Said it was considered but this will provide a more  
35 streamline process.

- 36  
37 • Coppola – Thought it appears that the applicant is being  
38 penalized because the County is short staffed.

39  
40 Greetham – In some cases it will cost the applicant to receive this  
41 letter but in others it will save the applicant the cost of a full report

1 that can be as much as \$1,000 or more. The trade off is an expedited  
2 process with a letter in the file. Staff is not proposing to absorb the  
3 cost at this time.

- 4
- 5 • Dean Jenniges – Asked why the County is even considering  
6 buffers. Understands the statement of why buffers protect  
7 wetland functions and values. Expressed concern over a site  
8 at Waaga Way and John Carlson Road where a large wetland  
9 was recently filled in.

10

11 Greetham – There are provisions for wetlands but in some cases, if  
12 you enhance or recreate wetlands elsewhere, it can be a trade-off.  
13 As to the case reference by Jenniges, Greetham said he would be  
14 happy to discuss this at length with Jenniges at a later time.

- 15
- 16 • Jenniges – Questioned the phrase, “Remove sediment.”  
17 Believes this is only if sediment is beginning to take place. He  
18 also questioned “Upland habitat” and again questioned the  
19 need for buffers.

- 20
- 21 • Mike Gustavson – Asked if shoreline is part of this discussion.

22

23 Charnas – Responded that yes, it is included in the Fish and Wildlife  
24 Habitat Conservation. It is in the existing ordinance as well.  
25 Numerous comments were received that the County lacked a  
26 program to designate and protect species of local concern. She  
27 itemized specific environmental characteristics that needed  
28 addressing such as eel grass beds, kelp forests and fish habitat.  
29 Development interests and property rights groups commented on  
30 buffer widths, in particular those on lower order streams, stating  
31 these are not justified and puts buildable lands in further jeopardy.  
32 Charnas then gave a detailed summary of stream buffer widths  
33 stating that in the 30-50 foot range, provision can be made for water  
34 quality and pollution abatement functions. Further, up to 700 feet,  
35 provision can be made for certain species of habitat. It is believed  
36 that Kitsap County stream buffers provide for a broad range of  
37 functions and not just for one in favor of another. The bulk of the  
38 scientific published work was conducted on steep slope, forestland  
39 areas. The environmental needs in these areas are entirely different  
40 that in Kitsap County is lowland, urbanizing area. Staff believes that  
41 the proposed stream and shoreline buffers fall within the range of

1 **Best Available Science for a broad range of riparian functions are**  
2 **supportable given the required strong consideration to anadromous**  
3 **fish. All flexibility is maintained for administrative buffer reductions,**  
4 **allowing for site-specific analysis.**

- 5
- 6 • **Coppola – Asked for clarification of site-specific administrative**  
7 **buffer reduction.**

8

9 **Charnas – If activity proposed affects a stream or buffer, the options**  
10 **are a Habitat Management Plan and buffer averaging.**

11

12 **Greetham – Currently, the Department has 25% administrative**  
13 **flexibility without going through the variance process. He defined**  
14 **Administrative flexibility as the ability to handle the application at a**  
15 **staff level without going through the Hearing Examiner public**  
16 **hearing process.**

- 17
- 18 • **Coppola – Stated that in other words, a bureaucrat makes the**  
19 **decision.**

20

21 **Greetham – The choices are \$500 to go before the Hearing Examiner**  
22 **for public hearing or staff can build in some flexibility for site-specific**  
23 **conditions. Staff's choice is to do site specifics.**

- 24
- 25 • **Coppola – Clarified that Greetham said it is a bureaucratic**  
26 **interpretation.**

27

28 **Greetham – There is very specific criteria followed to reduce buffers.**

- 29
- 30 • **Vice Chair Mahan – Stated this was an issue he would be asking**  
31 **for additional clarification on following the presentation.**

32 •

33 **Greetham – Explained there is guidance in the Code as to when a**  
34 **buffer can be reduced and under what circumstances.**

- 35
- 36 • **Deborah Flynn – Asked what is currently required.**

37

38 **Greetham – Currently there is 25% flexibility factored in without**  
39 **going to a formal public hearing. Under the current draft, 50%**  
40 **flexibility is recommended if the site meets the criteria to reduce the**

1 buffer and a habitat Management Plan is possible. These can be  
2 trade-offs.

- 3
- 4 • Flynn – In other words, staff is recommending more flexibility,  
5 not less.

6

7 Charnas – Following further explanation of steep slopes, frequently  
8 flooded areas and aquifer recharge areas, and she turned over the  
9 explanation of the process from this point to Eric Baker.

10

11 Baker – Explained the next steps, stating the second draft of and  
12 science support document will be released next Tuesday. A  
13 work/study session is scheduled for the next Planning Commission  
14 meeting on May 24, 2005. This will allow a week's review time for the  
15 Planning Commission members. He requested direction from the  
16 Planning Commission as to its preference in the next discussion.

- 17
- 18 • John A. – Asked about review of the Best Available Science and  
19 was told by Baker that the joint public hearing coming up with  
20 the Planning Commission and the Board of County  
21 Commissioners will be to request a review of the Kitsap County  
22 Best Available Science review of the CAO. They may also  
23 address the Best Available Science and hold discussion on this  
24 issue. However, the recommendations the Planning  
25 Commission will be making will only be based on the Critical  
26 Areas Ordinance as the implementing document.
  - 27
  - 28 • Ahl – Recognizing that Best Available Science is going to be  
29 problematic and he recommended that the Planning  
30 Commission move forward with its recommendation on the  
31 Critical Areas Ordinance.
  - 32
  - 33 • Gustavson – Suggested if people testify regarding Best  
34 Available Science, they need to come prepared to substantiate  
35 their position. He thought the Planning Commission should  
36 continue with the ordinance.
  - 37
  - 38 • Ahl – Further discussion on Best Available Science could derail  
39 the ordinance process and suggested the Planning  
40 Commission continue with the ordinance discussion.
- 41

1 • Mahan – Suggested the best approach is to break it up by  
2 sections.

3

4 • John Taylor – Before deciding, he wanted to hear from staff.

5

6 Baker – staff prefers breaking into sections. Obviously the wetland  
7 and fish and wildlife habitat are going to be the most controversial  
8 issues for discussion. There will be at least two, if not three,  
9 work/study sessions on the Critical Areas Ordinance between now  
10 and the joint public hearing. He recommended breaking it out by: 1)  
11 wetlands, 2) fish and wildlife habitat areas and 3) everything else.

12

13 • Jenniges– Only concern on Best Available Science is the  
14 purpose of buffers. Need to concentrate on that.

15

16 Baker – This is basically the process as it moves forward. Staff will  
17 be having meetings with members of the public, special interest  
18 groups, etc. to discuss issues relative to the second draft while  
19 work/study sessions are being conducted, followed by a joint public  
20 hearing some time in June.

21

22 • Flynn – Asked about inclusion of all public comments.

23

24 Baker – There are two documents associated with public comments.  
25 The first a comment matrix and then an already available summary of  
26 the workshops in regards to public comment received in the North,  
27 Central and South districts.

28

29 • Mahan – Not necessary to formally decide to break into  
30 sections.

31

32 • Gustavson – won't be here for next meeting and asked to  
33 provided a copy of a court case regarding strict Public Works  
34 guidelines for spraying chemicals around streams. This is  
35 specific to wetland protection and does not match with the  
36 County's proposal.

37

38 Jim Bolger – In response to a Planning Commission member's  
39 comment that Kitsap does not have any fish listed on the  
40 Endangered Species list, Bolger noted that Kitsap County has Hood  
41 Canal Summer Chum and Hood Canal Chinook on the list.

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- Mahan – Asked how often the County is required to update the Critical Areas Ordinance which will indicate how long before another opportunity arises to update again.

Bolger – 2011 is the next required revision date for the Critical Areas Ordinance. That will also be a time when the County must update its Shoreline Master Program. Currently Kitsap County has development standards associated with shorelines that are included in the CAO. Therefore development regulations are not a part of the Shoreline Master Program. Recently passed legislation will require Kitsap County to pull the shoreline related development regulations from the Critical Areas Ordinance during the 2011 process.

- Mahan – With respect to the flexible buffers, wetland section, he question how an administrative decision would be made on a hypothetical situation. It was a conversion of farmland to residential with no functioning buffer other than grass along a stream. What conditions would lead to 250-foot setback and what conditions would lead to 200?

Greetham – This would be determined by the new wetland buffer criteria. It depends on the intensity of the land use; single family is fairly low intensity. If commercial complex, a larger buffer would be required. It is also very site specific as to what the wildlife habitat functions are in the wetland. The new system is very site specific; land use intensity and wildlife habitat are the two most important criteria.

- Mahan – Asked if hypothetically he wanted to increase the function of the buffer directly adjacent to the wetland, would he then receive some type of credit for no further degradation and some credit for improvements to buffers.

Greetham – Responded positively to Mahan’s examples.

- Coppola – Concerned that one bureaucrat’s interpretation might be more liberal than another bureaucrat’s. This makes it the luck of the draw for the applicant as to which bureaucrat interprets the application.

1 Greetham – Asked if Coppola was concerned about independent  
2 enthusiasts and which direction they would go. He said staff is  
3 trying to write some very clear direction into the Code. The applicant  
4 still needs to meet the variance criteria. In other words, is there  
5 some need for reduced buffer on a lot, this is usually based on the lot  
6 size? A variance criterion still needs to be met. Clarity is necessary  
7 to avoid the “bureaucratic subjective calls.” Problems normally arise  
8 when the lot is too small for the buffer.

- 9
- 10 • Gustavson – On this topic, suggested looking at case law,  
11 Mason County v. Growth Management Hearings Board. It  
12 speaks very specifically to this. Also, Kitsap County seems to  
13 have a theme of allowing clustering to benefit a parcel. The  
14 counterpoint to this is that the distance from the streambed to  
15 the top of a steep slope may very well exceed 200 feet. What  
16 credit is being given to natural buffers that exist that are totally  
17 unbuildable to accommodate other properties upstream that are  
18 more buildable?

19

20 Bolger - One consideration is that instance is that each site is  
21 different and basing decisions on site specific will work out the best.  
22 A comprehensive understanding of the referenced system would be  
23 necessary. Currently, information is not available to do basin-wide  
24 decisions.

- 25
- 26 • Gustavson – The other basin-wide questions applies to the 800  
27 miles of streams, 400 miles of which are in steep canyons.

28

29 Bolger – That is correct thus the geological hazardous area setbacks  
30 would take precedence over any streams with associated buffers.  
31 Important to note that leaf litter in streams supports aquatic insects.

- 32
- 33 • Gustavson – Yet these are not producing the insect that  
34 produces food for the fish, leaving you with a beautiful, sterile  
35 stream with no fish.

- 36
- 37 • Ahl – Does not believe it appropriate to refer to Department of  
38 Community Development professional staff that the Planning  
39 Commission supports, either individually or as a group, as  
40 bureaucrats. This is inflammatory language, totally  
41 inappropriate and does not describe the people who work so

1 hard and who the Planning Commission is suppose to support  
2 and assist in doing their most difficult jobs.  
3

- 4 • Mahan – There was a time when being a bureaucrat was a  
5 compliment and he takes satisfaction that most of them are  
6 doing a good job and think the term bureaucrat, when used,  
7 refers to someone else.  
8
- 9 • Ahl – Also must admit that the professional staff is capable of  
10 unbiased opinions.  
11
- 12 • Jenniges – Much land in Blackjack Creek area did not have  
13 trees along the streams, it was instead good bottomland. Is  
14 bothered that the land existed for many years without planted  
15 buffers.  
16
- 17 • Mahan – Suggested that since a second draft is not ready, the  
18 Planning Commission ask for clarification, if needed on what  
19 has been presented and move on to the next issue.  
20

21 Discussion continued about quality of staff work.  
22

- 23 • Jenniges – Questioned an earlier statement that there are no  
24 protected salmon in Kitsap County.  
25

26 Bolger – There are Chinook that inhabit streams in Kitsap County  
27 who receive protection under the Endangered Species Act. There is  
28 also Summer Chum. Not familiar with the US District Court case that  
29 stated there were none.  
30

- 31 • Taylor – Is Kitsap County currently out of compliance with the  
32 GMA and if so, is the County required to make changes to the  
33 Act or just review it.  
34

35 Bolger – The current Critical Areas Ordinance was adopted in 1988.  
36 At that time, there were no rules for consideration of Best Available  
37 Science. Therefore staff needed to review scientific information to  
38 update the Critical Areas Ordinance. Staff is required to go through  
39 the process of revising the Critical Areas Ordinance.  
40

41 BREAK

1  
2 **D. Continuation of a Public Hearing (For Deliberation and**  
3 **Recommendation only)**  
4

5 1. Revisions to the Kitsap County Code Chapter 16.48 as it  
6 relates to Nine-lot Short Subdivision Ordinance.  
7

8 Baker – Explained how the stakeholders group worked to determine a  
9 better way to utilize up to nine lots in a short plat in the Urban Growth  
10 Areas of Kitsap County. Biggest issues discussed were requiring of  
11 a Homeowners Association on page 7 and requiring maintenance of  
12 the Access Track also on Page 7. Specific direction was not  
13 provided at the previous hearing held by the Planning Commission.  
14

15 A motion was made by John Ahl and seconded by John Taylor that  
16 the Planning Commission approve the revised Short Subdivision  
17 ordinance, draft No. 2.  
18

19 A motion was made by Tom Nevins and seconded by Deborah Flynn  
20 that a word change be made on page 6, Section 16.48.090, adding a  
21 new paragraph D to read, “The director, in coordination with the  
22 county engineer, shall determine if road connectivity between the  
23 short subdivision and adjacent properties [is required] to [potentially  
24 beneficial to the community.]” Nevins explained connectivity is often  
25 beneficial but may not always be necessary or should be required.  
26

27 Baker – There is an appeal provision such as this under the  
28 Procedures ordinance wherein anyone within 400 feet shall be able to  
29 appeal a determination of connectivity or non-connectivity.  
30

- 31 • Jenniges – Agrees with motion but had issue with the  
32 placement of short plats near an existing established  
33 development. Now road connectivity has become an option.  
34 He understands big concern about children’s safety, sidewalks,  
35 etc. However, if Baker is saying notices are sent out then his  
36 question has already been answered.  
37
- 38 • Deborah Flynn – Thinks the motion for the language change is a  
39 good because the County is trying to establish communities  
40 that are walkable and more pedestrian friendly and this applies

1 to subdivisions within urban areas and will therefore support  
2 the motion.

3

- 4 • John T. – Asked to hear from a stakeholder group member.

5

6 Jeff Comb – A member of the stakeholder committee gave the  
7 rationale behind the proposed paragraph D. It was determined to  
8 look at connectivity and that if Department of Community  
9 Development Director and the Public Works Director concurred with  
10 the word “required”, the Committee was comfortable with their  
11 conclusion. He reminded the Planning Commission that the four lot  
12 short plat does not change at all. This only addresses five to nine  
13 lots. As a developer and private citizen, if on a case-by-case basis,  
14 the right to appeal to the Hearing Examiner is still an option available  
15 to him. The focal point of this document is on page 7, A through G  
16 that addresses child safety and sidewalk requirements. If a person  
17 was allowed to create more than four lots and required to go to  
18 public hearing every time, then this new document is not necessary.  
19 The reason to create the nine-lot short subdivision in the first place  
20 was to come up to State standards, provide predictability thereby  
21 saving the average homeowner as much as six to twelve month’s  
22 time moving into their new homes. If new language is going to be  
23 added that requires a public hearing, he would prefer to table this  
24 and continue doing business as before.

25

- 26 • Ahl – Thinks the phrase “Potentially beneficial to the  
27 community” opens the ordinance up to many problems and  
28 suggested leaving the words “is required” as written.
- 29
- 30 • Flynn – Thinks the word “required” is more nebulous because  
31 what standards determine whether it is required or not.
- 32
- 33 • Vice Chair Mahan – The Kitsap County Engineer will be looking  
34 at the transportation model for the area which will determine if it  
35 is required, or not. Agrees with John Ahl. He is okay with this  
36 either way.
- 37
- 38 • Gustavon – There still remains a problem with the requirement  
39 of belonging to a Homeowners Association. There are  
40 problems with this as detailed in the newspaper recently.  
41 (Comment not germane to the subject at hand)

1  
2 Vice Chair Mahan called for the Question: THE VOTE: For-Tom  
3 Nevins and Deborah Flynn; Against-John Ahl, John Taylor, Dean  
4 Jenniges, Michael Gustavson and Lary Coppola. Motion Died for lack  
5 of quorum. Vice Chair Mahan refrained from voting at this time.

6  
7  
8 A motion was made by Vice Chair Mahan and seconded by Deborah  
9 Flynn that the acronym ESA be deleted from Page 2, item K. NO  
10 DISCUSSION. THE VOTE: For-Unanimous. Motion carried  
11 unanimously.

12  
13 A motion was made by Vice Chair Mahan and seconded by Deborah  
14 Flynn that on Page 15, Section 16.48.330 Construction, the word  
15 “morals” be stricken from that paragraph. NO DISCUSSION. THE  
16 VOTE: For-Unanimous. Motion carried unanimously.

17  
18 A motion was made by Lary Coppola to include a standard for  
19 broadband infrastructure to the new ordinance.

- 20  
21 • Vice Chair Mahan – Suggested this might already be addressed  
22 on Page 7, Section 16.48.095, F. Asked Coppola to draft some  
23 specific language while the Planning Commission moved on to  
24 something else.

25  
26 Baker – Also noted another area in the draft where this issue could  
27 be addressed. (Specifics inaudible)

28  
29 No vote was taken on the motion

- 30  
31 • Gustavson – Would find it difficult to believe that a nine-lot  
32 short subdivision would not be applied for by a developer to  
33 divide into nine lots. The problem comes with the requirement  
34 to belong to a Homeowner’s Association where at least one  
35 homeowner refuses to sign the document to joint the  
36 Association.

37  
38 A motion was made by Michael Gustavson and seconded by Tom  
39 Nevins that on Page 13 Section 16.48.250, in the title, that the word  
40 “disclaimer” be stricken, that the word “street” be made plural,  
41 “streets,” and in the first sentence the wording be changed to read “.

1 . .shall be constructed and maintained by the county.” Further that a  
2 sentence be added to read, “Developer shall improve and deed said  
3 streets to the County prior to approval.” This should get past all  
4 possible problems the developer might pass on to the homeowner.  
5 This eliminates the need for a Homeowners’ Association, loans will  
6 go through and everything should run smoothly.

7  
8 Baker – Relative to streets, this wording may be an RCW  
9 requirement, he will double-check this.\*\* Streets are not access  
10 tracts. The only time a public roadway would be required is if  
11 connectivity is required.

- 12
- 13 • Gustavson – If a road or street is publicly owned, then the
- 14 lending problem no longer exists.
- 15
- 16 • Taylor – Requested input from an engineer in the audience.
- 17

18 William Palmer – Said he is not an engineer but a land use planner.  
19 He asked if Section 250 on page 13, was not applicable to all short  
20 plats and was told yes. Rarely ever does a developer apply for a  
21 four-lot short subdivision with a dedicated right-of-way. At times  
22 only 20 or 30 feet are provided and therefore not in compliance with  
23 County road standards.

- 24
- 25 • Vice Chair Mahan – Difficult to support this concept.
- 26
- 27 • Gustavson – The road will be built to some standards. The
- 28 problem occurs when a developer owns all nine lots, then the
- 29 road will be developed and maintain. However if one individual
- 30 lot owner refuses to sign, the remainder of the property owners
- 31 are stuck with the bill. What is needed is a 20+ foot road,
- 32 access tract or whatever you want to call it.
- 33
- 34 • Vice Chair Mahan – Road standards were talked about when he
- 35 began working for Kitsap County in 1991 and when he left in
- 36 2001, they still were not done.
- 37

38 Baker – There are public road standards, but for private roads, there  
39 is nothing. The proposed ordinance contains the first private road  
40 standards ever documented outside of the Fire Marshall’s  
41 requirements in Kitsap County.

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- Flynn – The option appears to be in the ordinance for developing to County standards and then deeding to the County. The option remains for the developer to develop the road to County standards and then deeding it to the County as opposed to a maintenance agreement. It seems that if someone does not want to sign something then they don't move there.
- Gustavson – Asked where in the document does it state it can be deeded back to the County. Page 7, paragraph C shows a 30-foot width.
- Flynn – Referenced Page 13, Section 16.48.250, that states the exact language requiring the developer to develop the access easement or road or street to County standards in order for the County to accept it into the County road system. Otherwise, the maintenance shall lie with the lot owners and a disclaimer shall be written on the face of each short plat stating that the responsibility of maintaining the access road shall rest with the lot owners.

Baker – The decision on type of road is made at time of development.

- Jenniges – Has belonged to two Homeowner's Associations and has never seen a lapse period.
- Vice Chair Mahan - It is his understand that if the current motion on the floor passes, all access tracks will be developed to County standards. He stated his expectation that if this motion passes, the Stakeholder Committee will be in touch with the Board of County Commissioners and there will be some modifications at the Board level.

No discussion on the amendment. THE VOTE: For: Michael Gustavson, Lary Coppola, Tom Nevins; Against: Deborah Flynn, John Ahl, John Taylor, Dean Jenniges. Motion failed for lack of quorum. (Vice Chair Mahan withheld his vote)

10:45 Vice Chair Mahan left the meeting

- 1 • Commissioner John Ahl took over as Acting Chair. He  
2 recapped that currently the Planning Commission has only two  
3 approved amendment. Now looking for further discussion on  
4 other amendments.  
5
- 6 • Coppola – Came back with proposed language relative to the  
7 broadband issue as requested.  
8

9 A motion was made by Lary Coppola and seconded by John Taylor  
10 that on page 7, a sentence be added to paragraph F stating, “This  
11 easement shall include provisions for infrastructure to accommodate  
12 what is commonly referred to as broadband access.”  
13

#### 14 Discussion

- 15
- 16 • Gustavson suggesting deleting the words “Provisions for”  
17 because it could be a line on a piece of paper as opposed to a  
18 line in the ground. Coppola accepted the change. The wording  
19 will now read, “This easement shall include infrastructure to  
20 accommodate what is commonly referred to as broadband  
21 access.” THE VOTE: For-Unanimous. Motion carried  
22 unanimously.  
23
- 24 • Coppola – Asked about Page 13, Section 16.48.260, item 2. He  
25 interprets the language to mean that if two separate, side-by-  
26 side parcels wanted to do a nine lot short subdivision, only one  
27 would be allowed to do so.  
28

29 Baker – The language doesn’t prohibit but rather discourages such  
30 practice. Otherwise what could happen is a situation where a  
31 husband and wife each develop a nine-lot short subdivision on two  
32 adjoining parcels that they own jointly, thus creating an 18-lot plat.  
33 This should have gone through the platting process that requires a  
34 public hearing.  
35

36 A motion was made by Deborah Flynn and seconded by Tom Nevins  
37 that Critical Areas Ordinance be added at the top of Page 12 under  
38 Section 16.48.210, item A, immediately following the words Kitsap  
39 County zoning ordinance. She then asked if this was not already  
40 covered elsewhere in the draft.  
41

- 1       • Nevins – Thinks this is already covered on Page 6, Section  
2       16.48.090, Item 6, KCC Title 18 Environment

3  
4 Baker – These are two separate issues. The one referred to by  
5 Nevins is the preliminary approval that takes into account the final  
6 short subdivision approval. This is just one more stop gap for the  
7 County to make sure it is in compliance with the Critical Areas  
8 Ordinance.

- 9  
10       • Flynn withdrew her motion.

11  
12 A motion was made by Deborah Flynn that in Section 1, Page 1, and  
13 Definitions, under buffer there is a definition of buffer and there is  
14 also a standard by which buffers should be applied. Thinks buffers  
15 should not be applied in all rural zones and then that perimeter  
16 buffers are not very effective. Would rather save buffer requirements  
17 for real protection such as in critical areas, streams, shorelines and  
18 other sensitive areas. Thinks buffer language should be addressed  
19 under Standards on Page 6.

20  
21 Motion died for lack of second.

- 22  
23       • Acting Chair Ahl – There is a certain point where one stops  
24       being a definition and start being an implementing instruction.

25  
26 Baker – Addressed the two issues:

- 27       1. Should buffers be allowed in any short plats; and  
28       2. Is this properly constructed

29  
30 A motion was made by Michael Gustavson and seconded by John  
31 Taylor that Page 1, Item C, the definition for “buffers” be deleted in  
32 its entirety.

- 33  
34       • Flynn – Thought the word “Buffer” should be defined

- 35  
36       • Acting Chair Ahl – Stated a motion has been made and  
37       seconded to eliminate Item C, Page 1.

38 Discussion:

- 39       • Jenniges – Offered a friendly amendment. He suggested that  
40       item C has much information in it that should be required and at

1 least reviewed. He felt that eliminating just the first sentence  
2 would satisfy the concerns.  
3

- 4 • Jenniges – Offered a friendly amendment that the statement  
5 simply read, (A. A buffer shall be required in all rural zones).  
6
- 7 • Flynn – Offered another friendly amendment requesting that the  
8 underlined language be deleted  
9
- 10 • Taylor – Noted that if C is eliminated, so is items 1-8.  
11
- 12 • Nevins – Has a problem eliminating buffers requirements.  
13 Much relates to how it is applied. If a buffer is not required in  
14 rural areas, why should it be required in the UGAs.  
15
- 16 • Coppola – Agreed with Nevins. Buffers serve a purpose at  
17 times and do not necessarily think they should be eliminated in  
18 their entirety. Question about underscored sentence stating in  
19 part, “A buffer will be required in all rural zones. . .” It is his  
20 understanding that nine-lot short subdivisions will not be  
21 constructed in rural zones anyway.  
22

23 No further discussion being heard, a vote was taken on the motion  
24 to eliminate Item C, Page 1, Section 16.48.020, Definitions. THE  
25 VOTE: For- Michael Gustavson; Against – Dean Jenniges, Lary  
26 Coppola, John Taylor, Deborah Flynn and Tom Nevins. Motion failed.  
27

- 28 • Vice Chair Ahl asked if there were any further proposed  
29 amendments to the motion to approve the ordinance.  
30

31 A motion was made by Deborah Flynn and seconded by Michael  
32 Gustavson that the underlined sentence on Page 1 beginning with  
33 the words “A buffer will be required in all rural zones. . .” be deleted.  
34

- 35 • Flynn – Explained her reason for this amendment. The buffers  
36 are intended as perimeter buffers and she does not agree with a  
37 need for perimeter buffers on short subdivisions. She did not  
38 think that deleting this portion will eliminate the possibility of  
39 buffers on critical or sensitive areas. Baker agreed stating it  
40 would only impact perimeter buffers.  
41

1 Baker – Commented that if you actually remove this provision from  
2 the rural zones where it is already not required, there is no place  
3 where buffers will any longer be required and you might remove it  
4 from the definitions section as well.

- 5
- 6 • Jenniges – Agreed with that.
- 7
- 8 • Acting Chair Ahl asked if there was any more discussion on  
9 removing the entire underlined paragraph relative to buffers.  
10 He said this appears not to be in concert with the intent of this  
11 ordinance.
- 12

13 Baker - This statement has only been moved from one place in the  
14 Code to another. It is actually already in the Code.

15  
16 Discussion continued about buffer size make up.

17  
18 No further discussion being heard, a vote was taken on the motion to  
19 remove the underlined text as stated above. THE VOTE: Yes-Dean  
20 Jenniges, Michael Gustavson, Lary Coppola, John Taylor, Deborah  
21 Flynn and Tom Nevins. Against- None (The Acting Chair did not  
22 vote). Motion carried unanimously.

- 23
- 24 • Acting Chair Ahl – Again asked for any other amendments to  
25 the motion to approve the draft ordinance.
- 26
- 27 • Taylor – On page 13, Section 16.48.260, paragraph 2, thinks it is  
28 a significant change from current short plat rules. Here the  
29 Code would deny an applicant from obtaining approval side by  
30 side with another person. Does not think this is fair.
- 31
- 32 • Jenniges – How do you prove collusion?
- 33

34 Baker – If several partners in an LOC all want to come in and do a  
35 short subdivision at the same time on 3 separate but adjoining  
36 properties, this would look suspicious.

- 37
- 38 • Gustavson – Does not believe there are many large parcels left  
39 in the County's UGAs.
- 40

1 A motion was made by Lary Coppola and seconded by Michael  
2 Gustavson that the entire paragraph under Section 16.48.260, page  
3 13, Item 2B be stricken in its entirety.

4  
5 Baker – Clarified that there may be a legal issue with striking this  
6 section. The language was worked with by staff and was loosened  
7 up a bit but the edits caused concern in the Prosecutor' Office  
8 because this language came directly out of the RCW's. You can  
9 make small changes to RCW language but cannot change the  
10 verbiage so that it becomes out of compliance with the RCWs.

11  
12 Discussion

- 13  
14 • Coppola amended his motion to deleting everything beginning  
15 with the wording “. . .When an application for a short  
16 subdivision is filed within five years. . .” and from that point to  
17 the end of the paragraph.

18  
19 No action was taken on this motion

20  
21 A motion was made by Lary Coppola and seconded by Michael  
22 Gustavson to amend the original motion to read. “On page 13,  
23 Section 16.48.260, Item 2B, delete everything in Item 2B beginning  
24 with the wording “. . .When an application for a short subdivision is  
25 filed within five years. . .” referring to subdivision on contiguous  
26 land.

- 27  
28 • Nevins – Against the amendment because language puts  
29 citizens on notice and communicates an intention not meant.  
30 Wants to stay with existing language.

31  
32 No further discussion being heard, THE VOTE: For- Dean Jenniges,  
33 Michael Gustavson and Lary Coppola; Against – Deborah Flynn and  
34 Tom Nevins. John Taylor recused himself and the Acting Chair did  
35 not vote. Motion carried.

36  
37 Up to this point, 5 changes have been made

- 38  
39 • Acting Chair Ahl – The last amendment basically eliminates the  
40 five-year moratorium on further development and removes the  
41 presumption of guilt on those proposing to develop a

1 subdivision. He then asked if there were any further  
2 amendments proposed for this document.

3

4 The motion on the floor is that the Planning Commission  
5 recommends to the Board of County Commissioners that it approves  
6 and enact the Short Subdivision ordinance, as amended in five areas.

7 Recap:

8

- 9 1. Eliminate the acronym ESA on page 4
- 10 2. Eliminate the word morals on page 15
- 11 3. Infrastructure to accommodate broadband access
- 12 4. Eliminate section referring to buffers required in rural zones  
13 on page 1
- 14 5. Address the five-year moratorium on further applications for  
15 nine-lot subdivisions on page 13

16

- 17 • Gustavson – Called attention to page one, stating that the  
18 tendency to protect relatively undeveloped, undisturbed open  
19 space that can rapidly become blackberries, scotch bloom or  
20 the like. Thinks an approved landscaping plan better  
21 accommodate the things underneath it. The choice of words  
22 defining buffer can run counter to what the County is trying to  
23 accomplish.

24

25 A motion was made by Michael Gustavson and seconded by Lary  
26 Coppola that the words “or improves” be inserted after the word “. .  
27 .provides. . .” on Page One, Section 16.48.020, Item C.

28

29 Discussion:

30

- 31 • Nevins – Finds it difficult to look at the functions listed and see  
32 how an undisturbed area can still not be as good as a  
33 landscaped area. Landscaped can be as simple as bark dust  
34 around some rhododendrons. It could also go back to natural  
35 vegetation.

36

- 37 • Jenniges – Disagrees because most of the area has been  
38 logged at one time. Many of the trees are immature and  
39 diseased. Also thinks natural vegetation presents a haven for  
40 rodents. In most cases of development with open space, a  
41 disaster will eventually happen such as fallen trees. Believes

1 the homeowner should have the option to either leave it as is or  
2 landscape it.

3

- 4 • Gustavson – Noted that natural silt filtration systems tend to go  
5 best with grasses. Agrees with Jenniges that a person should  
6 have the option.

7

8 No further discussion being heard, THE VOTE: For – Dean Jenniges,  
9 Michael Gustavson, Lary Coppola, and John Taylor; Against –  
10 Deborah Flynn and Tom Nevins. The Acting Chair did not vote.  
11 Motion carried.

12

13 Six Amendments in all.

14

15 No further discussion being heard on amendments to the original  
16 motion to approve updates to the Short Subdivision Ordinance, THE  
17 VOTE: For – Dean Jenniges, Michael Gustavson, Lary Coppola,  
18 Deborah Flynn and Tom Nevins; Recused – John Taylor. The Acting  
19 Chair John Ahl did not vote. Motion carried.

20

21 *The Planning Commission voted to recommend approval of the*  
22 *updated Short Subdivision Ordinance, with six amendments, to the*  
23 *Board of County Commissioners*

24

## 25 E. CODE AMENDMENTS

26

### 27 1. Removal of 2:1 Lot Ratio from Rural Zones

28

29 A motion was made by Deborah Flynn and seconded by John Taylor  
30 that the Planning Commission recommend to the Board of County  
31 Commissioners that it approve removal of the 2-1 lot ratio from rural  
32 zones.

33

### 34 DISCUSSION

35

36 A motion was made by Lary Coppola and seconded by Deborah  
37 Flynn that Item A of each Section be amended to read, “. . .  
38 Newly created or reconfigured lots.”

39

40 Discussion:

41

- 1       • Coppola – There are some issues with some lots that are  
2       existing and will continue with problems if reconfigured is not  
3       added.

4  
5       Baker – Concerned that currently in the rural areas there are several  
6       non-conforming lots that do not meet the current zoning  
7       requirements. The inclusion of “or reconfigured” might remove  
8       grandfathering to meet the codes. A Boundary Line Adjustment  
9       would be the means by which reconfiguration would take place.

- 10  
11       • Gustavson – Asked if on the 140-foot lot widths, if a 20-foot  
12       wide driveway is applied, what happens then?

- 13  
14       • Jenniges – Against the proposed amendment. Baker’s  
15       comments make sense.

- 16  
17       • Nevins – Asked staff to explain why this ordinance will not set  
18       up a situation where you have 140 foot lots running several  
19       miles.

20  
21       Baker – This language would allow an example such as the west side  
22       of the County where there is a series of 140 to 200-foot wide lots  
23       abutting shoreline that run all the way up the slopes. This is one  
24       particular situation that the previous language was trying to address.  
25       The current 2:1 ratio created vastly more problems that it ever  
26       solved. Staff decided the best way to resolve this issue was to go  
27       back to the original language with the understanding that it would  
28       allow the long strip lots. The opportunities for this however are  
29       extremely limited.

30  
31       Coppola withdrew his original motion and made a new motion.

32  
33       A motion was made by Lary Coppola and seconded by Michael  
34       Gustavson that the word “reconfigure” will only apply to lot  
35       requirements for areas zoned Rural and Urban Reserve.

36  
37       Discussion

- 38  
39       • Small lots in rural areas  
40       • Lot line adjustments creating larger lots  
41       • This takes lot availability out of rural areas

- 1 • Puts more land in to UGAs without the capacity to
- 2 accommodate
- 3 • Could be viewed as taking of land
- 4 • Could additional 5,000 more people in rural areas be
- 5 accommodated on developable and undeveloped lots
- 6

7 Vice Chair asked for further discussion on the amendment to the  
8 original motion.

9

- 10 • Deborah Flynn – Does not have a clear enough
- 11 understanding of the ramifications if she supports the
- 12 amendment.
- 13

14 Baker– Has the same concern as before. Generally, in the Code  
15 reconfiguration and boundary line adjustments. The language  
16 currently can be interpreted by the Hearing Examiner, that if you  
17 reconfigure in the Rural Residential zone, you get three, ½ acre lots  
18 in different configuration. The developer must return to this area and  
19 needs to have 5 acres per lot or else your Grandfathering rights may  
20 be voided.

21

22 Fred Depee – The word reconfiguration may not be the appropriate  
23 word but the intent is still not to take a new parcel but use existing  
24 properties.

25

26 William Palmer –Agreed with staff. Does not work in this case and  
27 further complicates matters for people with already existing lots or  
28 legal non-conforming lots.

29

- 30 • Coppola – Withdrew his motion.
- 31

31

- 32 • Gustavson – Recommends that the minimum lot width in the
- 33 first five sections be made 100 feet.
- 34

34

35 A motion was made by Michael Gustavson and seconded by John  
36 Taylor that the minimum lot width and depth be changed from 140 feet  
37 to 100 feet on page 2, section 17.315.030 Lot Requirements, Item B.

38

39 Discussion

40

- 1       • Nevins – to have a minimum width and depth designated  
2       without a maximum length, creates situation where maximum  
3       overall is not covered.  
4

5       Baker – This number 140 feet allows for a rural, not urban,  
6       appearance.  
7

- 8  
9       • Gustavson – 100 foot lots are rural looking yet the Legislature  
10      did not qualify Kitsap County as rural.  
11

12      No further discussion being heard, THE VOTE: To reduce lot width  
13      and depth from 140 feet to 100 feet – For - Mike Gustavson and Lary  
14      Coppola; Against – Dean Jenniges, John Taylor, Deborah Flynn and  
15      Tom Nevins. The Acting Chair John Ahl did not vote. Motion failed.  
16

17      A motion was made by Tom Nevins and seconded by Michael  
18      Gustavson that at the end of Item B of each section the sentence,  
19      “No lot width and depth shall be 140 feet, no lot shall be more than  
20      5:1 ratio.”  
21

## 22      Discussion

- 23  
24      • Nevins - This changes the ratio from 2:1 to 5:1. After reviewing  
25      the maps, there should be no more strangely configured lots  
26      with long, two-mile driveways. You only have to look at the  
27      map and see a 40 acre lot only 140 feet wide, to see how  
28      unrealistic this type of situation can be.  
29  
30      • Gustavson - 140 widths already exists. There is not a lot in the  
31      County without a road running along the top of a hill that ends  
32      the lot.  
33

34      Baker – While this may reduce the problem it doesn't consider  
35      topography. Kitsap County has so many strange slopes , wetlands  
36      and streams creating a wide variety of lot configurations. Concerned  
37      this will restrict a number of other lots in the future lots and will still  
38      be seen as too restrictive.  
39

1 **THE VOTE: – For- Deborah Flynn and Tom Nevins; Against – Michael**  
2 **Gustavson, Dean Jenniges and John Taylor; Abstained - Lary**  
3 **Coppola; Acting Chair did not vote. Motion fails for lack of quorum.**

4  
5 **On the original motion by Deborah Flynn and seconded by John**  
6 **Taylor that the Planning Commission recommend to the Board of**  
7 **County Commissioners that it approve removal of the 2-1 lot ratio**  
8 **from rural zones: THE VOTE: For – Michael Gustavson, Dean**  
9 **Jenniges, Lary Coppola, John Taylor, Deborah Flynn; Against – Tom**  
10 **Nevins. Motion Carried.**

11  
12 **Acting Chair John Ahl continued this public hearing until the next**  
13 **regularly scheduled meeting on May 24, 2005.**

14  
15 **New business**

- 16  
17
  - **Coppola – Need to elect a new chair.**
- 18  
19
  - **Acting Chair Ahl – Vice Chair Mahan asked that this matter be**
- 20 **continued to the next meeting on May 24, 2005.**

21  
22 **11:20 AM - No further business being heard, a motion was made by**  
23 **John Taylor and seconded by Michael Gustavson that the meeting be**  
24 **adjourned. THE VOTE: Unanimous.**

25  
26 **ATTACHMENTS:**

- 27
- 28 **A. May 10, 2005 Agenda**
  - 29 **B. Critical Areas Ordinance PowerPoint Presentation**
  - 30 **C. Draft Short Subdivision Ordinance**
  - 31 **D. Draft Proposed Kitsap County Code Amendments**
  - 32 **E. Draft Proposed Code Amendments Revisions – Soil**
  - 33 **Combining and Composting in Rural Areas**
  - 34 **F. Overview of the Cooperative Public Process/Notable**
  - 35 **Changes to the First Public Draft**
  - 36 **G. Letter submitted by Harold Ruppert regarding revisions to**
  - 37 **Kitsap County Code, Soil Combining and Composting in**
  - 38 **Rural Areas**
  - 39 **H. Letter submitted by Vivian Henderson, KAPO, the Critical**
  - 40 **Areas Ordinance**

- 1 I. Paper submitted by Planning Commissioner John Ahl
- 2 entitled Articles published in the Planning Commissioners
- 3 Journal on Comprehensive Planning and Zoning
- 4 J. Article titled, “How to make easy money in California
- 5 K. Planning Commissioners Journal-Home Rules
- 6 L. May 10, 2005 legal public notice

7

8

9

APPROVED THIS \_\_\_\_\_ day of \_\_\_\_\_, 2005.

10

11

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14

\_\_\_\_\_  
Monty Mahan, Vice Chair

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16

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19

\_\_\_\_\_  
Acting Chair, John Ahl

20

21

22

\_\_\_\_\_  
Holly Anderson, Secretary  
Kitsap County Planning Commission

23