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

Patty Charnas - Department of Community Development staff, presented the PowerPoint presentation based on revisions and updates to the Critical Areas Ordinance second draft. After a full year’s work on the Critical Areas Ordinance revised draft, Charnas said the presentation today would include an overview of the process to date plus a summary and highlights of the ordinance’s second draft contents. She began with the process, noting that Kitsap County is required to review and update its Critical Areas Ordinance. Kitsap County’s five critical areas, as defined in the State Code are: 1) Wetlands, 2) Fish and Wildlife Habitat Conservation Areas, 3) Geologically Hazardous Areas, 4) Frequently Flooded Areas and 5) Critical Aquifer Recharge Areas. The review must include opportunities for public participation and consideration of best available science. The presentation continued with: 1) A summary and highlights showing notable changes from the first public draft, 2) An overview of the cooperative CAO process, 3) An explanation of the rationale behind buffer requirements, 4) An explanation of the record of Best Available Science, 5) Major public comments received on wetlands issue, 6) Wetlands section on flexible buffers, 7) Wetland single-family dwelling certification, 8) Major public comments received on fish and wildlife habitat conservation areas, 9) A summary of buffer widths, 10) Streams and shorelines, buffers and habitat conservation areas, 11) Steep slopes, frequently flooded areas and aquifer recharge areas, and 12) the Process for adoption of
the final Critical Areas Ordinance. Throughout the presentation, Charnas emphasized allowance for maximum public participation and how Best Available Science was included. (COPY OF COMPLETE POWERPOINT PRESENTATION ATTACHED TO ORIGINAL MINUTES)

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

- John Ahl asked about minimum sized wetlands that do not require setbacks and Greetham responded that 2500 feet or less are exempt if maps indicate wetlands nearby. The letter will address this exemption. He then asked if certification was required and Greetham responded that there is a society of wetland professionals that are confirmed by staff and placed on a list.

- Lary Coppola – questioned if any thought was given to the County paying the cost for this exemption. Thought it was similar to the County always “whining” about unfunded mandates passed on to the County from the State in that the County is now passing an additional cost to the applicant.

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

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

Greetham – In some cases it will cost the applicant to receive this letter but in others it will save the applicant the cost of a full report
that can be as much as $1,000 or more. The trade off is an expedited process with a letter in the file. Staff is not proposing to absorb the cost at this time.

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

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

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

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

Charnas – Responded that yes, it is included in the Fish and Wildlife Habitat Conservation. It is in the existing ordinance as well. Numerous comments were received that the County lacked a program to designate and protect species of local concern. She itemized specific environmental characteristics that needed addressing such as eel grass beds, kelp forests and fish habitat. Development interests and property rights groups commented on buffer widths, in particular those on lower order streams, stating these are not justified and puts buildable lands in further jeopardy. Charnas then gave a detailed summary of stream buffer widths stating that in the 30-50 foot range, provision can be made for water quality and pollution abatement functions. Further, up to 700 feet, provision can be made for certain species of habitat. It is believed that Kitsap County steam buffers provide for a broad range of functions and not just for one in favor of another. The bulk of the scientific published work was conducted on steep slope, forestland areas. The environmental needs in these areas are entirely different that in Kitsap County is lowland, urbanizing area. Staff believes that the proposed stream and shoreline buffers fall within the range of
Best Available Science for a broad range of riparian functions are supportable given the required strong consideration to anatamous fish. All flexibility is maintained for administrative buffer reductions, allowing for site-specific analysis.

- Coppola – Asked for clarification of site-specific administrative buffer reduction.

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

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

- Coppola – Stated that in other words, a bureaucrat makes the decision.

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

- Coppola – Clarified that Greetham said it is a bureaucratic interpretation.

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

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

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

- Deborah Flynn – Asked what is currently required.

Greetham – Currently there is 25% flexibility factored in without going to a formal public hearing. Under the current draft, 50% flexibility is recommended if the site meets the criteria to reduce the
buffer and a habitat Management Plan is possible. These can be trade-offs.

- Flynn – In other words, staff is recommending more flexibility, not less.

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

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

- John A. – Asked about review of the Best Available Science and was told by Baker that the joint public hearing coming up with the Planning Commission and the Board of County Commissioners will be to request a review of the Kitsap County Best Available Science review of the CAO. They may also address the Best Available Science and hold discussion on this issue. However, the recommendations the Planning Commission will be making will only be based on the Critical Areas Ordinance as the implementing document.

- Ahl – Recognizing that Best Available Science is going to be problematic and he recommended that the Planning Commission move forward with its recommendation on the Critical Areas Ordinance.

- Gustavson – Suggested if people testify regarding Best Available Science, they need to come prepared to substantiate their position. He thought the Planning Commission should continue with the ordinance.

- Ahl – Further discussion on Best Available Science could derail the ordinance process and suggested the Planning Commission continue with the ordinance discussion.
• Mahan – Suggested the best approach is to break it up by sections.

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

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

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

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

• Flynn – Asked about inclusion of all public comments.

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

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

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

Jim Bolger – In response to a Planning Commission member’s comment that Kitsap does not have any fish listed on the Endangered Species list, Bolger noted that Kitsap County has Hood Canal Summer Chum and Hood Canal Chinook on the list.
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.
Greetham – Asked if Coppola was concerned about independent enthusiasts and which direction they would go. He said staff is trying to write some very clear direction into the Code. The applicant still needs to meet the variance criteria. In other words, is there some need for reduced buffer on a lot, this is usually based on the lot size? A variance criterion still needs to be met. Clarity is necessary to avoid the “bureaucratic subjective calls.” Problems normally arise when the lot is too small for the buffer.

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

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

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

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

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

- Ahl – Does not believe it appropriate to refer to Department of Community Development professional staff that the Planning Commission supports, either individually or as a group, as bureaucrats. This is inflammatory language, totally inappropriate and does not describe the people who work so
hard and who the Planning Commission is suppose to support and assist in doing their most difficult jobs.

- Mahan – There was a time when being a bureaucrat was a compliment and he takes satisfaction that most of them are doing a good job and think the term bureaucrat, when used, refers to someone else.

- Ahl – Also must admit that the professional staff is capable of unbiased opinions.

- Jenniges – Much land in Blackjack Creek area did not have trees along the streams, it was instead good bottomland. Is bothered that the land existed for many years without planted buffers.

- Mahan – Suggested that since a second draft is not ready, the Planning Commission ask for clarification, if needed on what has been presented and move on to the next issue.

Discussion continued about quality of staff work.

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

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

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

Bolger – The current Critical Areas Ordinance was adopted in 1988. At that time, there were no rules for consideration of Best Available Science. Therefore staff needed to review scientific information to update the Critical Areas Ordinance. Staff is required to go through the process of revising the Critical Areas Ordinance.
D. **Continuation of a Public Hearing (For Deliberation and Recommendation only)**

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

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

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

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

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

   - **Jenniges** – Agrees with motion but had issue with the placement of short plats near an existing established development. Now road connectivity has become an option. He understands big concern about children’s safety, sidewalks, etc. However, if Baker is saying notices are sent out then his question has already been answered.

   - **Deborah Flynn** – Thinks the motion for the language change is a good because the County is trying to establish communities that are walkable and more pedestrian friendly and this applies
to subdivisions within urban areas and will therefore support
the motion.

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

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

• Ahl – Thinks the phrase “Potentially beneficial to the
community” opens the ordinance up to many problems and
suggested leaving the words “is required” as written.

• Flynn – Thinks the word “required” is more nebulous because
what standards determine whether it is required or not.

• Vice Chair Mahan – The Kitsap County Engineer will be looking
at the transportation model for the area which will determine if it
is required, or not. Agrees with John Ahl. He is okay with this
either way.

• Gustavon – There still remains a problem with the requirement
of belonging to a Homeowners Association. There are
problems with this as detailed in the newspaper recently.
(Comment not germane to the subject at hand)
Vice Chair Mahan called for the Question: THE VOTE: For-Tom Nevins and Deborah Flynn; Against-John Ahl, John Taylor, Dean Jenniges, Michael Gustavson and Lary Coppola. Motion Died for lack of quorum. Vice Chair Mahan refrained from voting at this time.

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

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

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

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

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

No vote was taken on the motion

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

A motion was made by Michael Gustavson and seconded by Tom Nevins that on Page 13 Section 16.48.250, in the title, that the word "disclaimer" be stricken, that the word “street” be made plural, “streets,” and in the first sentence the wording be changed to read “.
. .shall be constructed and maintained by the county.” Further that a sentence be added to read, “Developer shall improve and deed said streets to the County prior to approval.” This should get past all possible problems the developer might pass on to the homeowner. This eliminates the need for a Homeowners’ Association, loans will go through and everything should run smoothly.

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

- Gustavson – If a road or street is publicly owned, then the lending problem no longer exists.

- Taylor – Requested input from an engineer in the audience.

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

- Vice Chair Mahan – Difficult to support this concept.

- Gustavson – The road will be built to some standards. The problem occurs when a developer owns all nine lots, then the road will be developed and maintain. However if one individual lot owner refuses to sign, the remainder of the property owners are stuck with the bill. What is needed is a 20+ foot road, access tract or whatever you want to call it.

- Vice Chair Mahan – Road standards were talked about when he began working for Kitsap County in 1991 and when he left in 2001, they still were not done.

Baker – There are public road standards, but for private roads, there is nothing. The proposed ordinance contains the first private road standards ever documented outside of the Fire Marshall’s requirements in Kitsap County.
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
Commissioner John Ahl took over as Acting Chair. He recapped that currently the Planning Commission has only two approved amendment. Now looking for further discussion on other amendments.

Coppola – Came back with proposed language relative to the broadband issue as requested.

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

Discussion

Gustavson suggesting deleting the words “Provisions for” because it could be a line on a piece of paper as opposed to a line in the ground. Coppola accepted the change. The wording will now read, “This easement shall include infrastructure to accommodate what is commonly referred to as broadband access.” THE VOTE: For-Unanimous. Motion carried unanimously.

Coppola – Asked about Page 13, Section 16.48.260, item 2. He interprets the language to mean that if two separate, side-by-side parcels wanted to do a nine lot short subdivision, only one would be allowed to do so.

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

A motion was made by Deborah Flynn and seconded by Tom Nevins that Critical Areas Ordinance be added at the top of Page 12 under Section 16.48.210, item A, immediately following the words Kitsap County zoning ordinance. She then asked if this was not already covered elsewhere in the draft.
• Nevins – Thinks this is already covered on Page 6, Section 16.48.090, Item 6, KCC Title 18 Environment

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

• Flynn withdrew her motion.

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

Motion died for lack of second.

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

Baker – Addressed the two issues:

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

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

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

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

Discussion:

• Jenniges – Offered a friendly amendment. He suggested that item C has much information in it that should be required and at
least reviewed. He felt that eliminating just the first sentence
would satisfy the concerns.

- Jenniges – Offered a friendly amendment that the statement
simply read, (A. A buffer shall be required in all rural zones).

- Flynn – Offered another friendly amendment requesting that the
underlined language be deleted

- Taylor – Noted that if C is eliminated, so is items 1-8.

- Nevins – Has a problem eliminating buffers requirements.
Much relates to how it is applied. If a buffer is not required in
rural areas, why should it be required in the UGAs.

- Coppola – Agreed with Nevins. Buffers serve a purpose at
times and do not necessarily think they should be eliminated in
their entirety. Question about underscored sentence stating in
part, “A buffer will be required in all rural zones. . .” It is his
understanding that nine-lot short subdivisions will not be
constructed in rural zones anyway.

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

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

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

- Flynn – Explained her reason for this amendment. The buffers
are intended as perimeter buffers and she does not agree with a
need for perimeter buffers on short subdivisions. She did not
think that deleting this portion will eliminate the possibility of
buffers on critical or sensitive areas. Baker agreed stating it
would only impact perimeter buffers.
Baker – Commented that if you actually remove this provision from the rural zones where it is already not required, there is no place where buffers will any longer be required and you might remove it from the definitions section as well.

- Jenniges – Agreed with that.

- Acting Chair Ahl asked if there was any more discussion on removing the entire underlined paragraph relative to buffers. He said this appears not to be in concert with the intent of this ordinance.

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

Discussion continued about buffer size make up.

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

- Acting Chair Ahl – Again asked for any other amendments to the motion to approve the draft ordinance.

- Taylor – On page 13, Section 16.48.260, paragraph 2, thinks it is a significant change from current short plat rules. Here the Code would deny an applicant from obtaining approval side by side with another person. Does not think this is fair.

- Jenniges – How do you prove collusion?

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

- Gustavson – Does not believe there are many large parcels left in the County’s UGAs.
A motion was made by Lary Coppola and seconded by Michael
Gustavson that the entire paragraph under Section 16.48.260, page
13, Item 2B be stricken in its entirety.

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

Discussion

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

No action was taken on this motion

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

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

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

Up to this point, 5 changes have been made

• Acting Chair Ahl – The last amendment basically eliminates the
five-year moratorium on further development and removes the
presumption of guilt on those proposing to develop a
subdivision. He then asked if there were any further amendments proposed for this document.

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

Recap:

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

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

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

Discussion:

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

- Jenniges – Disagrees because most of the area has been logged at one time. Many of the trees are immature and diseased. Also thinks natural vegetation presents a haven for rodents. In most cases of development with open space, a disaster will eventually happen such as fallen trees. Believes
the homeowner should have the option to either leave it as is or landscape it.

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

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

Six Amendments in all.

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

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

E. CODE AMENDMENTS

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

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

DISCUSSION

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

Discussion:
• Coppola – There are some issues with some lots that are existing and will continue with problems if reconfigured is not added.

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

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

• Jenniges – Against the proposed amendment. Baker’s comments make sense.

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

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

Coppola withdrew his original motion and made a new motion.

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

Discussion

• Small lots in rural areas
• Lot line adjustments creating larger lots
• This takes lot availability out of rural areas
• Puts more land into UGAs without the capacity to accommodate
• Could be viewed as taking of land
• Could additional 5,000 more people in rural areas be accommodated on developable and undeveloped lots

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

• Deborah Flynn – Does not have a clear enough understanding of the ramifications if she supports the amendment.

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

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

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

• Coppola – Withdrawed his motion.

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

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

Discussion
• Nevins – to have a minimum width and depth designated without a maximum length, creates situation where maximum overall is not covered.

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

• Gustavson – 100 foot lots are rural looking yet the Legislature did not qualify Kitsap County as rural.

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

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

Discussion

• Nevins - This changes the ratio from 2:1 to 5:1. After reviewing the maps, there should be no more strangely configured lots with long, two-mile driveways. You only have to look at the map and see a 40 acre lot only 140 feet wide, to see how unrealistic this type of situation can be.

• Gustavson - 140 widths already exists. There is not a lot in the County without a road running along the top of a hill that ends the lot.

Baker – While this may reduce the problem it doesn’t consider topography. Kitsap County has so many strange slopes, wetlands and streams creating a wide variety of lot configurations. Concerned this will restrict a number of other lots in the future lots and will still be seen as too restrictive.
THE VOTE: – For- Deborah Flynn and Tom Nevins; Against – Michael Gustavson, Dean Jenniges and John Taylor; Abstained - Lary Coppola; Acting Chair did not vote. Motion fails for lack of quorum.

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

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

New business

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

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

ATTACHMENTS:

A. May 10, 2005 Agenda
B. Critical Areas Ordinance PowerPoint Presentation
C. Draft Short Subdivision Ordinance
D. Draft Proposed Kitsap County Code Amendments
E. Draft Proposed Code Amendments Revisions – Soil Combining and Composting in Rural Areas
F. Overview of the Cooperative Public Process/Notable Changes to the First Public Draft
G. Letter submitted by Harold Ruppert regarding revisions to Kitsap County Code, Soil Combining and Composting in Rural Areas
H. Letter submitted by Vivian Henderson, KAPO, the Critical Areas Ordinance
I. Paper submitted by Planning Commissioner John Ahl entitled Articles published in the Planning Commissioners Journal on Comprehensive Planning and Zoning
J. Article titled, “How to make easy money in California
K. Planning Commissioners Journal-Home Rules
L. May 10, 2005 legal public notice

APPROVED THIS _______day of ________________, 2005.

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Monty Mahan, Vice Chair

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Acting Chair, John Ahl

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Holly Anderson, Secretary

Kitsap County Planning Commission