

MINUTES

KITSAP COUNTY PLANNING COMMISSION PUBLIC HEARING May 24, 2005

The Kitsap County Planning Commission met on the above-stated date at the Eagle's Nest Conference Center, 1195 Fairgrounds Rd, Bremerton, Washington 98311. Members Present: Tom Nevins, Monty Mahan, John Ahl, Lary Coppola, John Taylor, Deborah Flynn and Dean Jenniges. Member Absent: Michael Gustavson. Staff Present: Eric Baker, Dave Peters, Jim Bolger, Arnica McCarthy, Robbyn Myers, Dave Greetham and Planning Commission Secretary Holly Anderson. Eight 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.

9:05 A.M.

Approval of Minutes

B. May 10, 2005 Minutes

A motion was made by Lary Coppola and seconded by Dean Jenniges that approval of the Planning Commission minutes of May 10, 2005 be tabled until the next regularly scheduled Planning Commission meeting. **Motion carried.**

C. Vacancy of Vice Chair Position

Due to the resignation of the 2005 Planning Commission Chair, Mark Flynn, Vice Chair Monty Mahan is now the new 2005 Chair. This creates a vacancy in the Vice Chair position. The Planning Commission Bi-laws, Rules and Procedures are silent to the procedure for filling this vacancy. At a previous meeting, Tom

1 Nevins was tasked with creating new language to amend the
2 Planning Commission Bi-laws, Rules and Procedures to allow for
3 replacement of the vice-chair vacant position.
4

5 A motion was made by Tom Nevins and seconded by Dean Jenniges
6 that Under Section 7, Elections, of the Kitsap County Planning
7 Commission Bi-laws, Rules and Procedures, the new language will
8 read as follows: “Elections shall be held the first meeting of each
9 calendar year. Any officer may, however, be removed at any
10 scheduled meeting by a vote of a majority of the full Commission
11 entered on record. In the case of a declared vacancy or of the
12 resignation of the Chair, the Vice Chair shall automatically serve the
13 remainder of the Chair’s term of office. THE VOTE: For- Unanimous.
14 Motion carried unanimously.
15

16 A special election will be held to elect a second Vice Chair to serve
17 until the next regular election.
18

19 If the Vice Chair position is vacated, the office of Vice Chair shall be
20 filled via a mid-term election at the meeting following the notice of
21 vacancy or resignation.”
22

23 A motion was made by Dean Jenniges and seconded by Tom Nevins
24 that Deborah Flynn be nominated as the Planning Commission’s
25 2005 Vice Chair. Commissioner Flynn accepted. THE VOTE: Motion
26 carried.
27

28 C. Continuation of a public hearing to deliberate and make a
29 recommendation to the Board of County Commissioners on the
30 various Code amendments
31

32 Eric Baker - Reminded the Planning Commission members that they
33 had previously made a recommendation on the first of six Code
34 amendments that were the 2:1 lot ratio issue, leaving Code
35 amendments 2-6 for deliberation and recommendation.
36

37 2. Urban Low Minimum Lot Width
38

39 Baker gave a brief review stating that currently in the Urban Low
40 zone there is a minimum lot width of 40 feet that was instituted with
41 the ULID-6, (McCormick Woods) Subarea Plan. This zoning was

1 intended to be ULID-6 centric because master planning was required
2 within the boundaries of ULID-6 to provide active recreational
3 opportunities, passive recreational trail systems, parking and other
4 life safety and esthetic issues prior to any type of subdivision.
5 However, when this was approved it was mistakenly implemented
6 countywide, yet master planning is not required countywide. This
7 Code amendment was intended to be for ULID-6 only but was
8 erroneously applied countywide. Master planning is now allowed
9 countywide. The county does have a performance based
10 development standard allowing a developer to get down to 40-foot lot
11 widths. Staff recommends that this error be corrected and that 40-
12 foot lot widths are not permitted in Urban Low zones. The
13 stakeholders involved in this change did not represent all of Kitsap
14 County, only the McCormick Woods area. Consequently, staff is now
15 receiving applications for 40-foot lots, for instance, from the
16 Silverdale area causing consternation from Silverdale area residents
17 who correctly object since they had no say in the creation of this
18 section of the Code. This is basically a housekeeping issue based on
19 process failure.

20
21 A motion was made by John Ahl and seconded by Dean Jenniges
22 that the Planning Commission recommends approval to the Board of
23 County Commissioners that the 40-foot minimum lot size be removed
24 from Urban Low zoning.

25
26 Discussion

- 27
- 28 • Jenniges – Since urban low residential is not a lot of property,
29 the esthetics can't be maintained, even though this is urban, on
30 a parcel this small.
 - 31
 - 32 • Lary Coppola – As with previous Code amendments, he
33 expressed concern over an administrative decision being
34 subject to interpretation. This could result in 40 feet becoming
35 the standard versus allowing wider lot configuration. Concern
36 is who on staff makes the determination. After Baker confirmed
37 that approval will put the standard back to 60, not 40 feet,
38 Coppola withdrew his objection.
 - 39

40 Fred Depee – A member of the audience, said the Board of County
41 Commissioners approved 40-foot lots, and that staff does not have a

1 problem with 40-foot lots because it just recommended approval on
2 McCormick Woods North that is over half in 40-foot lots. These are
3 very popular in urban areas. He recommended the Planning
4 Commission leave Urban Low Residential zones at 40-foot lots. He
5 noted this is width, not depth, being discussed.

- 6
- 7 • Jenniges– Believes that one lot for every five lots is not that
8 significant of a move. Ramblers cannot be built on a 40-foot
9 lot and ramblers are very popular in today’s market. 60 feet is
10 esthetically better.
 - 11
 - 12 • Ahl – Sees no reason not to support staff’s recommendation in
13 favor of the change.
 - 14
 - 15 • Nevins – explained that for every three lots you can get four
16 homes. Can see places in UGAs where it might be helpful to
17 have 40-foot lots possibly as a choice. If sewers and other
18 basic urban infrastructure are available, he sees no problem to
19 staying with the 40 feet.
 - 20
 - 21 • Flynn – After thinking about Planned Unit Developments, the
22 standard for which is 40 feet and although allowing smaller lots
23 promotes GMA regulations, 40 feet can still be obtained. She
24 requested the dimensions for Urban Medium and Urban High
25 zones and was told there are no lot requirements for either, one
26 can go as small as desired. These two designations are
27 generally intended for multi-family construction.
 - 28
 - 29 • John Taylor – Asked if there is a minimum lot size currently for
30 any development in the Urban Low zones and was told it
31 would be 2400 square feet or 40 X 60. Staff will be proposing
32 3600 square feet or 60 X 60 for single-family construction.

33
34 THE VOTE: For - Dean Jenniges, Monty Mahan, John Ahl; Against -
35 Lary Coppola, Tom Nevins and Deborah Flynn. Motion failed for lack
36 of majority. Since the vote is a tie, 3 for and 3 against, no
37 recommendation will be made to the Board of County
38 Commissioners on the Urban Low Minimum Lot Width Code
39 Amendment.

40
41

1 **3. View Blockage Process**

2
3 **Baker – Currently on shoreline lots, regulations are adopted via the**
4 **Shoreline Management Master Program. The regulations apply to**
5 **how far forward lot owners can build on their lots versus other**
6 **homes on the shoreline. The designated line creates a boundary**
7 **beyond which construction cannot take place. In certain**
8 **circumstances, it is wiser to build beyond that line. A Conditional**
9 **Waiver process has been established for people to construct their**
10 **homes in front of the line. Prior to the Hearing Examiner process**
11 **and the Procedures Ordinance, all Conditional Waivers were taken in**
12 **front of the Board of County Commissioners. To go before the Board**
13 **with each Conditional Use Waiver application is an onerous process;**
14 **particularly since this process is counter-intuitive to the process in**
15 **which all other land use applications are processed. Approval of the**
16 **language before the Planning Commission today would remove**
17 **approval by the Board of County Commissioners and make it a Type**
18 **II Administrative decision by the Department of Community**
19 **Development Director. With this new proposed process, a notice will**
20 **be sent to property owners within 400 feet of the proposed site and**
21 **will expedite the time for a builder to get a permit. Anyone can still**
22 **appeal the waiver to the Board. It is important to note that the**
23 **shoreline Condition Waiver will then be consistent with all other land**
24 **use applications.**

- 25
26 • **Ahl – Questioned how many times per year is this an issue.**

27
28 **Baker – Approximately six to eight applications are processed per**
29 **year.**

- 30
31 • **Jenniges – Mentioned a view blockage issue at Miami Beach in**
32 **the Seabeck area. Apparently the surrounding neighborhood**
33 **was unaware of the structure being build and he asked if there**
34 **is any recourse as to how notification can be provided.**

35
36 **Baker - Type II applications are mailed out to the property owner and**
37 **surrounding properties within 400 feet. This is more notification than**
38 **provided by statutes when the matter goes directly before the Board**
39 **of County Commissioners. Only the property owner and applicant**
40 **are notified in this case. Additionally, no posting is associated with**
41 **the Board of County Commissioners process.**

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- Chair Mahan – Staff recommends a change to the current shoreline regulations to provide for a Type II Administrative process.

A motion was made by John Taylor and seconded by Lary Coppola that the Planning Commission accepts the staff’s recommendation to change the shoreline Conditional Use Permit to a Type II Administrative decision process.

Discussion

- Ahl – Not sure that this process should not have as much visibility as current process allows. Thinks shoreline construction draws attention of neighboring properties. Thinks that, in some way, it should be publicly heard.
- Jenniges– Agrees that the current process is cumbersome.

Baker – a Conditional Waiver cannot be obtained just because a homeowner wants one. They must meet four specific criteria. He reminded the Planning Commission members that the application can still be appealed to the Board of County Commissioners and that more notification occurs in the proposed process.

- Chair Mahan – These applications are usually very controversial and he does not think it appropriate for the Board to abdicate its responsibility for Shoreline Conditional Use Permits. He is not surprised that the Board is short of time in its public meetings since they have cut their meeting schedule in half. He is not sympathetic to that. He noted that these applications can be explosive issues and that it is a mistake to make the notification requirements less rigorous.
- Flynn – As a shoreline resident, she wants to be notified whenever there is development in her neighborhood. She thinks the proposed language shifts the burden so that if the person who is building on the shoreline wants to develop further out, they can do so easier. The procedure makes it more difficult for adjacent landowners because they have to file an

1 appeal rather than just going to a public hearing to testify. She
2 agrees with Mahan.

- 3
- 4 • Coppola – Asked about notification and was told that the
5 applicant is required to transmit a letter to adjacent property
6 owners on either side and sign an affidavit to that affect.
7
 - 8 • Coppola – Agreed with Mahan and Flynn however he would like
9 to see the 400 foot notification notice be given instead of just
10 the property owners on each side of the site in question.
11
 - 12 • Nevins – Also agreed with Coppola about additional notification
13 to neighbors other than the two adjoining properties.
14

15 Baker – Noted that the regulations only apply to the adjacent
16 property owners and that the other properties in the neighborhood
17 do not have standing regarding shoreline rights.

- 18
- 19 • Ahl – This may be the problem in that they should have
20 standing because they are also very much affected.
21

22 Baker – The proposed new process will not necessarily make it
23 easier to obtain a Shoreline Conditional Waiver but will make it faster
24 in most cases. The burden of proof remains the same.

- 25
- 26 • Nevins – Referenced skinny lots running down to the shoreline
27 and thinks the neighboring properties should have the right to
28 weigh in on an application.
29
 - 30 • Taylor – In favor of notifying the entire neighborhood because
31 problems occur when surprises happen. However he was not
32 in favor of these applications going before the Board of County
33 Commissioners. Does not think the Board should be looked at
34 to make every decision that occurs in the County. That is what
35 staff is for and prefers dealing with issues at the lowest level
36 possible.
37
 - 38 • Jenniges – Asked how often residents have complained about
39 someone building a house adjacent to the shoreline.
40

1 Baker – While it is controversial and neighboring properties would
2 prefer that new construction not impact their view in any way, staff
3 does get comments in this regard. Shoreline regulations are very
4 explicate as to the two neighboring properties having standing. Two
5 of the last ten applications have been appealed. Questioned what
6 would make the view blockage issue different from all other land use
7 decisions that are of equal concern to neighboring properties.

- 8 • Jenniges – Questioned if a new home would be noticed by
9 neighborhood until actual construction began.

10
11 Baker – The entire application process happens prior to any visual
12 appearance of construction.

13
14 THE VOTE: To accept staff's recommendation to change Shoreline
15 Conditional Use Permits to a Type II, Administrative process For-
16 Tom Nevins, John Taylor; Against – Chair Mahan, John Ahl, Deborah
17 Flynn, Lary Coppola and Dean Jenniges. Motion died for lack of
18 quorum.

19
20 Chair Mahan wished it stated for the record that part of the concern is
21 the lack of notification to properties beyond the immediate
22 neighbors.

23
24 4. Soil-Combining and Composting in Rural Areas

25
26 Baker - The original document was sent out some time ago and a
27 revision distributed at the last hearing. Baker explained the practice
28 of soil combining and composting where clearing debris is turned
29 into a specific form for disposal. Given the burn ban issues in Kitsap
30 County especially over the past five plus years and that burning is no
31 longer allowed in the Urban Growth Areas, a problem exists as to
32 how to dispose of the waste. There needs to be locations designated
33 for soil combining and stump grinding to get rid of the debris.

34 Currently, this practice is only allowed in industrial zones. Since this
35 type of use requires a significant amount of property, Baker said it is
36 difficult now and will become more so in the future, to locate these
37 significant public services in the Urban Growth Areas. Members of
38 the Public Works/Solid Waste Division and Puget Sound Clean Air
39 Agency are present if anyone has any questions. The current
40 proposal is to allow these two activities in certain rural zones with
41 very clear development criteria. The criteria includes: 1) particular

1 size of the property, 2) must access directly off a County-maintained
2 right-of-way, 3) must provide a 50-foot natural vegetation buffer
3 around the perimeter of the property and 4) the property must be
4 adjacent to an Industrial zone. In other words, the criteria will only
5 apply to those properties already closest to Industrial zones where
6 these types of uses are already taking place. The proposed use must
7 additionally mitigate noise, odor, dust, light impacts, etc. and meet all
8 requirements of the Code. There is currently a shortage of soil-
9 combining and composting activities and likely to be more so in the
10 future. These uses need to be provided for while protections can be
11 made for the surrounding neighborhood. Baker thinks the
12 regulations proposed meet the delicate balance described.

- 13
- 14 • Flynn – Asked why the buffers are proposed to be reduced from
15 100 to 50 feet.

16

17 Baker – Once regulations go as far as 100 feet for buffers, the benefit
18 of the activity needed is almost negated by the rigid buffer
19 requirements. He gave an example and said it is believed that the 50-
20 foot requirement can be achieved through a variety of ways.

- 21
- 22 • Jenniges – Asked about noise mitigation and if the applicant
23 can plant additional trees in the buffer area. Was told yes along
24 with native vegetation.

- 25
- 26 • Flynn – Asked for standards for noise and how noise from
27 stump grinding will be eliminated. Neighborhood noises can be
28 very disturbing from almost any noise-generated activity.

29

30 Baker – There will be strict noise requirements. Stump grinding must
31 be carefully located on a suitable parcel, for example, Hansville by
32 the dump, rural land near Pioneer Way and some additional land near
33 Highway 3. Also the hours of operation must be restricted likely after
34 a certain time limits plus holidays etc.

- 35
- 36 • Ahl – Referenced stump grinding on site and asked for
37 clarification about the proposed use today.

38

39 Baker – Stump grinding entails bringing stumps onto the property,
40 then ground and chipped in one location. There are various reasons

1 why this cannot always be accomplished on site and this would
2 provide a specific location for this activity.

- 3
4 • Taylor – Asked Baker if possibly the requirement of “must be
5 adjacent to Industrial zone” is not a little too restrictive.

6
7 Baker – This is because the site must be near fire flow and like uses.

- 8
9 • Mahan –Asked Baker what the setbacks for industrial uses in
10 Industrial areas are.

11
12 Baker – Building setbacks are roughly 25 feet from the property line
13 and more in some cases for noise protection and he gave examples.
14 Can be up to 50 feet if a business park is located next to a stump-
15 grinding site.

- 16
17 • Chair Mahan –He is all for simplicity in the Code and asked if
18 any thought was given to less of a buffer if on the property line
19 next to Industrial and more of a buffer on the residential side.

20
21 Baker – This is going to be a Rural Residential or Rural Protection
22 zone predominantly intended for single-family use. It is not intended
23 to give away an entire buffer against one type of use not be able to
24 get it back if the use were to change.

- 25
26 • Jenniges – Asked if any requests have been received for a
27 stump grinding facility.

28
29 Baker – Yes, people have been looking for sites. Stump grinding is
30 usually an accessory use to soil combining.

31
32 No further discussion being heard, a motion was made by Dean
33 Jenniges and seconded by Deborah Flynn that the Planning
34 Commission accepts the staff recommendation as stated. THE
35 VOTE: For- unanimous. Motion carried unanimously.

36
37 **5. Multiple Front Yard Setbacks**

38
39 Baker – Reviewed this issue stating that as more and more
40 properties are developed, the more difficult sites are coming into the
41 County to be developed. In rural areas, there are many non-

1 conforming lots. Setbacks changed in the rural areas from 20 foot
2 for front yards and 5 feet at the side and rear, to 50-foot front yard
3 and 20 foot side and rear. On a 3 to 4 acre parcel this is not a big
4 issue. However, on a corner lot, there are two front yards. The
5 proposed regulations allow flexibility to work with topography,
6 critical areas, etc. to reduce certain front yards from the 50-foot
7 minimum or in urban areas from the 20-foot minimum, if appropriate.
8 There may be instances where the entire 50 or 20 are not needed. An
9 example would be a front yard that does not take access off of
10 anything. Access involves parking issues. Areas where the County
11 does not want to minimize setbacks would be on major arterials and
12 collectors where the road may eventually be widened. Examples are
13 Jackson Avenue and Big Valley. This will also provide flexibility to
14 the Director, a request that has been made repeatedly by a number of
15 applicants. Staff requests that the Planning Commission recommend
16 approval of this Code change as written.

- 17
- 18 • Ahl – Questioned vested vacant lot setbacks.
- 19

20 Baker – The setbacks would actually be moved further down and
21 regulations would indicate that if the property is less than one acre in
22 size, utilization is allowed for 25, 5 and 5 setbacks and not the 50, 20,
23 20 and 20. This language would only apply to vacant land.

24

25 No further discussion being heard, a motion was made by John
26 Taylor and seconded by Deborah Flynn that the Planning
27 Commission accepts staff's recommendation. THE VOTE:
28 Unanimous. Motion carried unanimously.

29

30 6. Lot Requirements for Single-Family Residential
31 Developments in Urban Medium zones

32

33 Baker – For Urban Medium zones, multi-family is the expected
34 development. As the market is leaning toward single-family lots,
35 accommodation can be made for ten single-family sites in Urban
36 Medium zones. Approval of the ULID-6 Subarea Plan altered this
37 table countywide instead of just the ULID-6 area. Multi-family has
38 parking underneath the structure, fire mitigation strategy, making the
39 setbacks not as necessary. This is not available for single-family
40 lots. Staff recommends returning the setbacks in place prior to
41 adoption of the ULID-6 subarea plan and to improve consistency, the

1 minimum lot width will probably be 40 feet versus 60 feet. This is
2 also the lot width for Urban Low zones.

- 3
- 4 • Jenniges – Agrees with changing the minimum lot size to 40
- 5 from 60 for single-family residential development in Urban
- 6 Medium zones.
- 7

8 No further discussion being heard, a motion was made by Dean
9 Jenniges and seconded by Tom Nevins that the Planning
10 Commission concur with Staff's recommendation to change the
11 minimum lot size in Urban Medium zones for single-family
12 construction to 40 feet from 60 feet. THE VOTE: For-Dean Jenniges,
13 Tom Nevins, Lary Coppola, John Taylor and Deborah Flynn;
14 Abstained-John Ahl. Motion carried.

15

16 No further discussion being heard, a motion was made by Deborah
17 Flynn and seconded by Tom Nevins that the Planning Commission
18 accepts Staff's Code amendments as stated. THE VOTE: For-
19 Unanimous. Motion carried unanimously.

20

21 Work/Study Session

- 22
- 23 1. Wetlands Section of the Critical Areas Ordinance, second
- 24 public draft and Science Support document
- 25
- 26

27 Baker – This is the first discussion of the Wetlands section. The
28 handout today is the same as found in the entire draft ordinance but
29 is only the Wetlands Section, County Code Section KCC-19-200. He
30 introduced staff members who would be presenting various portions
31 of the Wetlands section.

32

33 Dave Greetham – Explained the current and newly proposed process.
34 Update of the Critical Areas Ordinance is mandated by the GMA.
35 Currently wetlands are protected with buffers. This will continue but
36 the buffers are proposed to change in some areas. He explained the
37 rating system in that there are four categories of wetlands, one being
38 the highest value, four being the lowest. Currently, buffers are 25
39 feet on fours such as pastures, valleys, grazed agricultural pastures.
40 Threes are typical alder forest, medium size wetland, not very high
41 wildlife value with a 50-foot buffer at this time. Twos are large

1 wetland systems, typically five acres or greater with 100 foot buffers.
2 Lastly, ones are the very pristine wetlands with 200-foot buffers at
3 this time. The four-category system will continue but with more
4 flexibility in the buffers based on site-specific conditions. Current
5 flexibility includes the ability to request a 25% administrative buffer
6 reduction, if needed. Buffers can be reduced up to 50% with Buffer
7 Averaging, a process where the total amount equals up to 50% on
8 one side and 50% elsewhere. First Greetham discussed changes and
9 the proposed certification process (sample given today of Pierce
10 County's).

11
12 Robbyn Myers – Discussed the newly proposed rating system and
13 how it affects the wetlands. Explained that the newly proposed rating
14 system, as opposed to the original, looks at function rather than
15 number of trees present, size of trees, amount of water present, and
16 other items of this nature. The newly proposed system looks at three
17 functions: 1) Water quality; 2) Hydrologic function or the ability to
18 store or release water over time; and 3) habitat complexity or value
19 for plant and animal species. This system is detailed and complex in
20 nature and considers factors above and beyond the original rating
21 system. Myers gave an overview of how it will work with the
22 proposed flexible buffer system being proposed. As wetlands are
23 rated, water quality and quantity is considered as is habitat. Much of
24 the buffer flexibility revolves around habitat structure that is more
25 detailed. This does consider number of trees, corridors, percentage
26 of wetlands versus percentage of water in watersheds. It is basically
27 a habitat based and derived buffer system. Myers discussed
28 examples such population study to determine how Kitsap County
29 would apply this new rating system and how the flexible buffer plan
30 will work in Kitsap County. Seeing application might give people a
31 better understanding of how it works. It is great science, very
32 complicated, looking at potential and capability of water systems or
33 wetlands on a watershed level. It also considers the type of land use
34 and what actually exists in the wetlands.

35
36 Greetham – This is most likely why the Department of Ecology (DOE)
37 is the State oversight agency for wetlands. The new system looks at
38 what is actually happening on an individual's wetland and property.

39
40 Dean – Asked how water quality is determined. He thinks that
41 wetlands are actually swamps, Had two concern, the impacts: 1) to

1 the 2 ½ acre lot owners at Morgan’s Marsh; and 2) the entire Big Beef
2 Valley’s homesteads in the lowlands. Has documentation that says 0
3 buffers are just as good as 100-200 foot buffers. These are the type
4 of questions the public will ask at the public hearing and he thinks
5 the public feels no one is listening to their concerns and that staff is
6 using arbitrary numbers based on a State-driven agenda that wants
7 everyone to have buffers.

8
9 Myers – Responded that there is dead animals, plants, rotten
10 vegetation in wetlands that impacts the water quality. What makes
11 wetlands so good at cleaning out water is that they all need
12 something unique to the site. The more vegetation, the more the
13 wetlands work to survive and remove the unwanted debris. This is
14 how water quality is determined.

- 15
16 • Jenniges – Finds it difficult to quantify the aspects involved
17 with cleaning out the water. He continued to discuss impact to
18 citizens with wetlands on their properties and how it affects
19 them personally. He referenced this as a property rights issue.
20

21 Greetham – Relative to the property rights issue, if there is an
22 existing home, it is grandfathered as a vested use. However, it is the
23 new development that gets hit the hardest. This is recognized in the
24 analysis. Next, there is a provision addressed within the Code
25 stating that by working with the land owner, if a property is
26 conditioned under prior plat approval, the language allows flexibility
27 to find a balance between old, original buffer approval of, say, 25 feet
28 and the new proposed regulations..
29

30 Greetham – Page 38 of the handout shows table shows the tables for
31 wetlands and the flexibility for activity within wetlands.
32

- 33 • Coppola – Buffers is an emotional issue. Remembers a public
34 process where the majority of citizens felt that more buffers
35 were not needed and is this not a case of staff saying, “We
36 know better.”
37

38 Greetham – Staff is trying to find the balance where in some cases
39 buffers can be smaller and in others larger.
40

1 Myers – Explained rationale how buffers could be smaller. The rating
2 system, as previously stated, gives staff the values for water quality
3 and quantity and habitat functions. Page 38, shows the wetland
4 categories. She gave examples of what a particular score would
5 allow in points for buffering. Myers continued to use the draft
6 document to give examples of application of the point system using
7 comparisons, content of wetlands and an in-depth explanation of the
8 four-category system. In short, she reiterated that each category is
9 habitat driven.

10
11 Greetham – Noted that the Department of Ecology allows the newly
12 proposed rating system because it provides for site-specific
13 analysis.

- 14
15 • Coppola –Does not believe the County staff listened to the
16 people. He thinks the County went through the public hearing
17 motion and did what they wanted anyway.

18
19 Greetham – Staff has diligently compiled public comment but is also
20 required to determine status of property using best available science
21 (BAS).

22
23 Jim Bolger – Noted that public comment was received on both sides
24 of the issue. Staff is charged with balancing community goals and
25 objectives together with staff's recommendations based on Best
26 Available Science.

- 27
28 • Chair Mahan– Posed a hypothetical situation. If he had a piece
29 of property with a category one wetland on it regardless of the
30 habitat quality, under current regulations, would there be any
31 variance on the size of the buffer?

32
33 Myers – There would be a 200-foot buffer at time of application. If
34 encroachment into the buffer area occurs, staff would look at buffer
35 averaging.

- 36
37 • Chair Mahan – What if Department Of Transportation uses the
38 wetlands on this property as a detention pond causing an oily
39 sheen on the water, habitat is dead, is it still 200 feet of buffer?

40
41 Myers – If it meets the Category One system, yes.

1
2 **Greetham – Asked Myers if it was true that if it was created as a**
3 **detention pond it does not qualify for a regulated wetland.**

4
5 **Myers – Yes, but a Category One would not meet that criterion**
6 **anyway.**

- 7
8 • **Chair Mahan – He is aware of ponds in Kitsap County where**
9 **DOT tight lined their water directly to them. However, under the**
10 **new system, one could get a reduced buffer because the habitat**
11 **value is impaired.**

12
13 **Greetham – One of the key changes in this document is that more**
14 **on-site issues are addressed. The DOE recommends this and**
15 **several counties have already adopted similar ordinances.**

- 16
17 • **Jenniges – Again referenced studies published against buffers**
18 **and has trouble justifying 200-foot buffers. Noted that court**
19 **cases are allowing construction within critical habitat areas,**
20 **supported with Best Available Science. Needs justification for**
21 **Kitsap County’s stand that buffers arbitrarily be 200 feet.**
22 **Thinks this is difficult to justify and is the wrong approach.**

23
24 **Bolger– While keeping in mind the need to stay focused on the**
25 **ordinance as drafted, Bolger reminded the Planning Commission**
26 **members that science is not a “razor’s edge.” There is no one**
27 **particular study that is definitive and sets the standard on a**
28 **particular discipline or topic. State rules regarding Best Available**
29 **Science provides for an entire spectrum of studies, each of which**
30 **may qualify as Best Available Science. These will contain a range of**
31 **recommendations or conclusions associated with them. Given that,**
32 **one of the issues staff must deal with and is open to review, is to**
33 **look at the significance of evidence that exists. Some studies may**
34 **indicate a minimal buffer is required, especially if looking at a single**
35 **function a riparian buffer may accommodate. Some studies may also**
36 **indicate, for instance, that 700 feet is appropriate when looking at a**
37 **single function. This process provides a wide range of options**
38 **creating one of the difficulties in working with buffers, (this was**
39 **acknowledged in the white paper) that site-specific information is**
40 **always the best way to determine the buffer range. Knowing the**
41 **environment one is working with and how it fits in to the broader**

1 system is the best available science to have. Unfortunately, this is
2 not always available and in the instances when buffers must be used,
3 looking at the localized information as much as possible to find the
4 balance is the conclusion used for guidance. If one study says no
5 buffers and another says a thousand, hypothetically, yet staff finds
6 100 studies noting a wider range within that spectrum, the more
7 moderate approach has been taken rather than going to the extreme
8 in either direction. He acknowledged that Best Available Science can
9 be found in several studies, peer reviews and publications compiled
10 by recognized experts in their discipline that will meet criteria for
11 Best Available Science. The ordinance approval process will take an
12 inordinate amount of time if the Planning Commission wishes to
13 analyze and discuss every study or scientific piece of information
14 used to draft the proposed ordinance.

- 15
- 16 • Jenniges – Told Bolger he made his point by stating that there
17 is a wide variety of BAS from 0 to 800 feet. He prefers 100, 75,
18 25 and 0 and believes he could find science to support this.

19

20 Bolger – Staff tried not to take a number and then find science to
21 justify that number. If one looks at the Best Available Science that
22 has been compiled it attempts to determine the direction where the
23 evidence exists—this will be a more narrow range within a broader
24 spectrum of scientific information available. Staff has tried not to
25 back engineer the process. The statutes are very clear that this
26 would not be the preferred methodology. Instead, staff is to review
27 the Best Available Science prior to producing the numbers. This is
28 essentially the process for drafting the ordinance.

- 29
- 30 • Jenniges - Gave example of road running directly parallel with
31 Big Beef Creek. There is no buffer and asked if the water
32 quality has been monitored for road run-off in this area.

33

34 Bolger – This gets back to the preferred site-specific information. He
35 did not have an immediate response to Commissioner Jenniges’
36 question but noted that the Health District does monitoring.

- 37
- 38 • Jenniges – Questioned the justification for 200-foot buffers if
39 the affect to wetlands is not monitored.

40

1 Bolger – Hopefully a monitoring system will be in place to allow for
2 site-specific information. Flexibility is built into the ordinance to
3 allow for generating site-specific information. It is difficult to
4 respond to site-specific questions such as Jenniges’ without the
5 data.

- 6
- 7 • Taylor – Point of order. This is a work/study session where
8 staff makes its presentation while the Planning Commission
9 members listen to the presentation and ask clarifying questions
10 in order to understand what staff is trying to communicate. He
11 does not think it is the Planning Commission’s role to debate an
12 issue to this length.
 - 13
 - 14 • Mahan – Agrees with Taylor but thinks this is a necessary
15 conversation and that some good points have come out of the
16 discussion on how Best Available Science is derived.
 - 17
 - 18 • Taylor – Agrees the conversation is inevitable but does not
19 think it is time for it until staff has finished its presentation with
20 the Planning Commission members being allowed to ask only
21 clarifying questions. This is the time to receive information.
 - 22
 - 23 • Coppola – This is an emotional issue and this discussion needs
24 to take place eventually, but agrees that it is inappropriate at
25 this time.
 - 26
 - 27 • Jenniges – Thought work/study sessions were held to allow for
28 questions.
 - 29

30 Greetham – The road issue brings the presentation back to site-
31 specific analysis under the new rating system, i.e., is there a road
32 nearby. Whether agreement is reached on the buffers or not is where
33 the process will eventually end up. Finally, Greetham discussed the
34 permit process as in when a permit is submitted, how to get it from
35 point A to point Black and should the County go with the new single-
36 family certification form.

37

38 Myers – Staff is concerned that there is a lot of information to absorb
39 relative to the flexible buffer issue and rating system, realizing it is
40 good information to proceed with implementation. This will not only
41 recognize the type of buffers needing protection but also water

1 quality, quantity and habitat in the County. Also, this will be
2 instrumental in helping staff to oversee large mitigation projects in
3 Urban Growth Areas and the information gathered will guide staff to
4 even better success in mitigation areas. Staff has asked the
5 consultants to implement the new rating system to determine the
6 types of changes that will take place. There has been little change
7 and smaller buffers, smaller even than current regulations require.

8
9 Greetham – Discussed how staff determines if there is wetland
10 present when a permit is submitted. Using a large building
11 limitations map to illustrate, Greetham explained that staff digitizes
12 existing wetland slopes and soils information. Two sources are
13 used; the National Wetlands inventory and the US Soil Conservation
14 Service that indicate where wet soils likely exist. These are not 100%
15 accurate. When an application is received, staff generates a building
16 limitation map for each application. The next day, applications go
17 through triage to determine if wetlands exist on or near the site. If
18 there is a potential wetland on or near the site, it has to go in the
19 stack for cycling. The new form would be submitted with the
20 application and would certify that a project is either completely
21 outside the wetland buffer or if it is near a wetland, it is a required
22 buffer under the County system as previously described. The
23 certification moves the application through the process quicker. The
24 costs would be a need to hire a consultant in the \$3-600 range. The
25 form allows applications outside a buffer to move quickly through the
26 process without holding it up for staff review. Again, the form puts
27 something in the file stating the site is outside the buffer. On the
28 maps, if the parcel is beyond the determined buffer range, there is no
29 hold up for site plan review. It is a non-issue if the maps indicate the
30 site is located directly adjacent to a buffer but with the form, staff can
31 determine that there is a wetland nearby but outside the buffer. Staff
32 just needs a way to certify activity is outside a buffer in order to
33 move the permit through the system more quickly. This has been
34 placed in the Code as a one-page insert. If the Planning Commission
35 and/or the Board do not like this concept, it can be easily removed.

- 36
37 • Flynn – It is her understanding that this is an option for the
38 landowner. That they can either goes this route or opt for
39 something different.
40

1 Greetham - This is up for discussion. Staff is proposing this become
2 a standard if there is a wetland on or adjacent to a parcel. If this is
3 not approved, it puts the applications back into the site review status.
4

5 Myers – Also the department is trying to reduce staff time in the field.
6 If staff is asked to perform a feasibility study, information can be
7 input into the County’s database to state an applicant will either need
8 this certification or wetland delineation.
9

- 10 • Flynn – If an applicant has a parcel with a known wetland
11 present, she understands the certification step is omitted and
12 this parcel would go straight to delineation. This is for parcels
13 where the status is in question.
14

15 Discussion continued regarding the need to clarify that the
16 certification process is not for all permits, only those where a
17 wetland is involved.
18

- 19 • Taylor – Sounds like each permit submitted is guilty until
20 proven innocent at the expense of the applicant.
21

22 Myers – This is not the case. This only applies to those parcels
23 where the map clearly shows a resource is located within 250 feet, or
24 whatever range is decided on or if one is located on the property.
25 This will also only come into play if there is no additional or historical
26 information available. Staff may have already completed a site
27 inspection or feasibility study and made a determination. This is
28 relying on in-house maps.
29

30 Greetham – The maps are only approximately 70% correct. The drain
31 field design maps will usually indicate if any wetlands are either on or
32 near the site. All maps are used to make a determination. This is
33 essentially a short form wetland report.
34

- 35 • Chair Mahan – What if the wetland specialist inputs data without
36 actually viewing the site?
37

38 Greetham – Checked with Pierce County that is already using this
39 system. They have had some problems with the “letter factories”
40 that can be created by this process but they are now being double-
41 checked in the field.

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Meyers – There are some violators. However error-free, quality, professional work is expected and this will be defined in the ordinance.

Baker – In summary, the second draft includes:

- 1. A new rating system that adopts flexible buffers specifically stated in a bulk best available science. Based on the rating system, a buffer will either get smaller or larger depending on site-specific conditions of the property. Rather than using an ill-fitting system of 1-4, this will provide flexibility at base level. The type of wetland on the site will be determined.**
- 2. Additional flexibility regarding buffers. The current flexibility in the Code allows for up to 50% decided administratively by the Department of Community Development and more than 50% with a Critical Areas Variance. This is another site-specific factor in working with the property owner. It is not just with Best Available Science, not just with site-specific constraints of the property but also what the applicant wishes to do with the property under the guise of no-net-loss philosophy.**

Between these two systems, the new Department of Ecology (DOE) rating system and the flexibility worked into the Code, staff believes it is operating with Best Available Science and not what a specific property’s wetland is like and not what a wetland should look like in a theoretical perspective. Also, staff will have the flexibility to work with individual property owners to get a project on a site that provides a no net loss to the resource.

Greetham – This is in addition to the flexibility for existing structures and minor expansions explained earlier in the presentation. Also on top of whatever buffer range is ultimately decided on by the Board.

Baker – Highlighted that this is the most flexible method possible to allow for both resource protection yet allowing the applicant to proceed with a project. With the inclusion of the single-family certification program, provision is made to expedite the building permit process and gives individuals the flexibility to do up-front

1 work that speed up efforts when an application is submitted to the
2 Department of Community Development.

- 3
4
- 5 • Chair Mahan – Asked for clarification of the process from this
6 point forward for the Planning Commission’s work.

7
8 Baker – When Wetlands Section work/study is completed, the next
9 work/study will address streams. A final work/study will be held on
10 the remainder of the proposed ordinance: steep slopes, frequently
11 flooded areas, aquifer recharge, as well as any residual issues
12 remaining from wetlands and streams. Obviously, buffers will be
13 discussed at multiple meetings. Following these work/study
14 sessions, a Board of County Commissioners and Planning
15 Commission joint public hearing will be held, no sooner than at least
16 six weeks from now. Most likely July or later. Staff has worked for
17 18 months on Best Available Science. The second draft of the
18 ordinance and the Science Support document is the Department’s
19 professional, technical opinion on the ordinance that is appropriate
20 for Kitsap County with all the flexibility previously described.

21
22 Bolger – Legal review has also been performed on an on-going basis
23 throughout the drafting of this document.

- 24
- 25 • Chair Mahan – Asked for target date for Planning Commission
26 recommendation and was told by Baker most likely late July.
27 Additional Planning Commission meetings are also anticipated.
 - 28
 - 29 • Flynn – Needs to have proposed dates for additional meetings
30 as soon as possible. Also, asked about the Comprehensive
31 Plan review process.

32
33 Bolger – Staff has an initial draft docket for Comp Plan amendments
34 for 2005. Site specifics will not be considered this year. Staff
35 anticipates the Comp Plan amendment process to begin later in the
36 fall with the potentially the Kingston and South Kitsap subarea
37 planning processes moving forward. Hoping to get through the
38 Critical Areas Ordinance before starting the Comp Plan amendments.

- 39
- 40 • Coppola – Asked for the mandated completion date for the
41 Critical Areas Ordinance process.

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- Flynn – Language needs to be cleaned up on the certification process for clarity that it does not apply to everyone. Also asked that if this is not made mandatory, what are the options. If not mandatory, then more staff will be needed for site inspections or the process will take longer.

Greetham – Staff is proposing that it be mandatory if there is a wetland hit. The map shown today is the one used by the applicant to prove whether or not his property is outside the buffer range. It will only not be required only if there is no wetlands on or near the site.

Myers – Alternative will be business as usual as the process currently exists. Turn-around time now can take anywhere from six to eight weeks, depending on permit load and staff availability.

- Flynn –When the concept was presented originally, it seemed as though it would be optional and doing the certification offered a streamlined incentive.

Greetham – Staff will start with this and wait to see how it is received.

- Ahl – Asked if joint public hearings are proposed for this process and Greetham reiterated that they are. Next he referenced two paragraphs on page 41 of the draft ordinance, paragraph G. Dedication of buffers that states, “The buffer area shall be dedicated as a permanent open space tract functioning as critical area buffers or as required by the department the buffer shall be identified on the site plan and filed with an attachment with the notice as required by Section 19.150, Notice to Title. This essentially removes this parcel of property from any other status. He also asked if that parcel is removed from the tax rolls.

Greetham – The intent is that the purchaser has something on record stating this, for instance, has a critical area buffer so there are no surprises further on. The parcel is not removed from the tax rolls. On major plat projects it is typically dedicated as common open space, but on single-family homes, the majority of applications, it is

1 simply a notice to title and a note on the site plan stating this to be
2 the buffer area.

- 3
- 4 • Ahl – On page 52, paragraph 19.200.255, Settings for Wetland
5 Protections, “Kitsap County recognizes that property owners
6 hope to gain economic benefits for their land. The County
7 encourages such mechanisms as the Open Space Tax Program,
8 Conservation Easements, donations to land trust, in order to
9 provide taxation relief upon compliance with the regulations
10 under this title.” Asked if buffered areas on individual single-
11 family properties will be eligible for these tax set asides
12 regardless of size.

13

14 Greetham – Currently small, single-family lots do not receive much
15 benefit from these incentive programs because if there is already one
16 residence on the property, this is all that is allowed anyway. Usually
17 it is a benefit on larger parcels. The Assessor’s Office lowers the
18 taxes for poor utility that is wetlands and critical areas, in part but not
19 significantly.

- 20
- 21 • Ahl – The intent of his question deals with established
22 properties relative to some type of relief for owners of wetland
23 properties. There is nothing to mitigate the removal of say 300
24 feet of his property but he is no longer taxed for his property.
25 In other words, the owner ends up with a taxed parcel that he
26 can use. He asked if any thought has been given to this issue.

27

28 Greetham – In order to respond to this question, he needs to contact
29 the Assessor’s Office to get additional detail on a typical small
30 parcel, and ask how much tax relief they are allowed. **

- 31
- 32 • Ahl – The question is should they get more relief. Suggested
33 compensation to the owner since this is no longer taxable
34 property.

35

36 Bolger – This type of system is in place through the Public Benefit
37 Rating System. If part of a parcel is encumbered, a property owner
38 can apply for an Open Space, Current Use Tax Assessment
39 reduction. This is a tax shift. Currently, this is done through the
40 application process. Discussion needs to be held as to whether this
41 could possibly be automatic enrollment when the buffer is identified.

1 The Assessor's Office's currently does not have enough staff to do
2 the fieldwork.

- 3
- 4 • Ahl – Page 41, paragraph G., the County will be removing in
5 perpetuity a parcel of land from uses that once were viable
6 options. Along with this it seems there should be language
7 stating the County recognizes this and will no longer consider
8 the buffer areas as part of the tax rolls. This might make the
9 issue more palatable to the property owners.

- 10
- 11 • Flynn – Asked if there is a minimum size that can be put into
12 open space.

13
14
15 Bolger– Explained the various types of open space programs.
16 Thinks there is a restriction on size on some of the programs but it is
17 actually determined on resource-based protected through the
18 program.

- 19
- 20 • Ahl – Thinks this is worth looking at and possibly
21 incorporate into the Critical Areas Ordinance.
 - 22
 - 23 • Nevins - If he were in charge, he would want very specific
24 guidelines speaking to reduction or increase of any attribute
25 associated with critical areas. Can staff imagine making a
26 decision not covered by any written guidelines and knowing
27 that any final decision made will be considered unfair,
28 regardless of the language.

29
30 Greetham - The new point system puts the County on solid ground
31 with buffers.

32
33 Myers – Numbers are heavily relied on which will probably bring forth
34 the criticism. Whatever the result of this is, the buffers will then be
35 fairly clear.

- 36
- 37 • Jenniges – Asked if options exist to fill in wetlands to construct
38 a barn on an acre of land.

39
40 Greetham – There is, but it will be costly. The easy answer to this
41 question is if wetlands are less than 2,500 square feet, you may build.

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- Chair Mahan – Thought enough material as needed was covered and entertained a motion to adjourn. The next meeting is June 14, 2005.

No further business being heard, a motion was made by Deborah Flynn and seconded by John Taylor that the meeting be adjourned.
THE VOTE: Motion carried unanimously.

APPROVED THIS 14 day of June, 2005.

Monty Mahan, Chair

Holly Anderson, Secretary
Kitsap County Planning Commission

Exhibit No.	Description
A.	May 24, 2005 Agenda
B.	Draft language for amended Bi-Laws
C.	Draft Short Subdivision Ordinance
D.	Proposed Kitsap County Code Amendments
E.	Insert for Proposed Code Amendments
F.	Kitsap County Critical Areas Ordinance – Second Draft May 17, 2005
G.	Insert for Critical Areas Ordinance, Single-Family Wetland Certification
H.	Insert for Critical Areas Ordinance, Overview of the Cooperative Public Process
I.	Several sample maps that would accompany Certification document
J.	Email from Tom Nevins – corrections on the May 10, 2005 draft Planning Commission minutes
K.	Legal Notice for the May 24, 2005 Planning Commission meeting