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MINUTES
KITSAP COUNTY PLANNING COMMISSION
Work Session
December 19, 2006

6 These minutes are intended to provide a summary of the
7 meeting flow and content and should not be relied upon for
8 specific statements from individuals at the meeting.

10 **The Kitsap County Planning Commission met on the above-stated date at**
11 **the Kitsap County Administration Building, Commissioner's Chambers**
12 **located at 619 Division Street, Port Orchard, WA 98366. Members present:**
13 **Dean Jenniges, Tom Nevins, Michael Gustavson, Lary Coppola, and Brian**
14 **Bekeny. Staff present: Linda Bentley, Scott Diener, Patty Charnas, Jim**
15 **Bolger, Robbyn Meyers, and Planning Commission Secretary, Christina**
16 **Lindner.**

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19 **9:05 AM**

- 20 **A. Commissioner Coppola calls the meeting to order and introduces**
21 **the Planning Commission members present.**

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24 **9:05 AM**

- 25 **B. Approval of Planning Commission Meeting Minutes:**

26
27 **A motion was made by Commissioner Nevins and seconded by**
28 **Commissioner Jenniges to approve the minutes of October 10, 2006.**

29 **The VOTE:**

30 **Yes: 5**

31 **No:**

32 **Abstained:**

33 **Motion carries**

34
35 **Gustavson:** *Questions if corrections noted in previous e-mail were added*
36 *to the record.*

37
38 **Diener:** Corrections have been made.

39
40 **A motion was made by Commissioner Jenniges and seconded by**
41 **Commissioner Bekeny to approve the minutes of October 24, 2006.**

42 **The VOTE:**

43 **Yes: 5**

44 **No:**

45 **Abstained:**

1 **Motion carries.**

2 **Gustavson:** *Repeats corrections from previous e-mail.*

:300

4 **A motion was made by Commissioner Nevins and seconded by**
5 **Commissioner Bekeny to approve the minutes of November 14, 2006.**

6 **The VOTE:**

7 **Yes: 4**

8 **No:**

9 **Abstained: 1**

10 **Motion carries.**

12 **Gustavson:** *Repeats corrections from previous e-mail.*

14 **A motion was made by Commissioner Nevins and seconded by**
15 **Commissioner Bekeny to approve the minutes of November 28, 2006.**

16 **The VOTE:**

17 **Yes: 3**

18 **No:**

19 **Abstained: 2**

20 **Motion carries.**

22 **Gustavson:** *Repeats corrections from previous e-mail and states that Jim*
23 *Avery's statement on page 262 needs to be written verbatim.*

25 ***Discussions held regarding Jim Avery's statement.***

28 **9:15 AM**

29 **C. Silverdale Downtown Design Guidelines – Linda Bentley,**
30 **Senior Planner, Community Planning, DCD**

32 **Bentley:** These guidelines appeared in the 10-Year update but were never
33 adopted due to lack of public participation. The Commissioners are concerned
34 about developments without these guidelines. A working group has been
35 meeting since September and a public meeting is scheduled for the end of
36 January. The CKCC has been briefed.

38 **Coppola:** Is there only one public meeting?

40 **Bentley:** Yes.

42 **Jenniges:** *Asks for clarification on the Silverdale Design Guidelines.*

44 **Bentley:** Volume 3, Appendix B notes the Draft Downtown Design Guidelines
45 for Silverdale. Changes will be minimal. We are trying to streamline and make
46 consistent drawings so it can be presented to the community again.

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Jenniges: I looked at it as a comprehensive plan, not as a Silverdale update.

Bentley: The sub-area plan was updated as part of the 10-Year Comprehensive Plan but the design guidelines will become part of the development regulations. If developing in Silverdale, guidelines must be followed.

Jenniges: I don't see a plan for what these guidelines intend to do.

Bentley: Chapters 3-9 gives the specifics for each of the districts. Chapters 1 & 2 were wordy and that is what we are trying to streamline. I urge you to come to the meeting because this topic will be presented to you in February and March. There will be many opportunities to look at this plan.

Jenniges: Is there a list of working group members? I represent Central Kitsap so details would be appreciated. This, to me, is a general document with regards to urban growth areas.

Bentley: The community requested a combination of requirements and guidelines. There will be both. For example, the community wants a specified height maximum. In some areas they want landscape requirements for parking lots.

Bekeny: Where will the meeting be held?

Bentley: I am hoping Silverdale.

Coppola: Thank you.

9:22 AM

D. GMHB CAO Work Plan and Update – Patty Charnas, Manager, Natural Resources, DCD

Charnas: We are now ready to address the remand order that was issued by the Central Puget Sound Growth Management Hearings Board for Kitsap County to fix two provisions of the revised CAO. After adoption in December 2005 there were two appeals filed. We believe that the time frame we have set will bring us into compliance. The first item found that did not comply with the GMA was our exemption from regulations for certain small isolated wetlands. Those are found in the wetlands chapter that addresses two kinds of categories. These categories are numbered 1-4 based on functions and values. Our adopted revisions to the CAO address how activities are to be regulated based on the category. Category three and four wetlands of a certain size have been exempted from regulations and now need to be fixed for the purposes of coming into compliance.

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Gustavson: Are wetlands defined by the plants that grow there?

Charnas: They are determined by soils, plants and hydrology.

:865

Gustavson: If one plant grows in a thimble sized wetland, will it require a buffer?

Charnas: The presence of all three is required.

Discussions held regarding the determination of wetlands.

Robbyn Meyers: If one out of three factors is present, it is unlikely the area is wetlands. Water is the least determinant of the factors. If there are two factors, the remaining factor can be filtered out by other outlining observations on trees or soil. It is more complicated if one is missing.

Jenniges: Areas along Waaga Way, which were once farmland, are now under water. Based on the current definitions they are considered wetlands. Will the property owners be put under regulations or are they automatically under regulations?

Meyers: The wetlands along the arterial of Waaga Way exceed those limited square footage sizes. The systems you are describing are old floodplain areas. The wetlands are extensive on those properties. Existing land use is granted.

Gustavson: I noticed the phrase “To bring the ordinance into compliance with GMA”. Where in the GMA is the paragraph that defines compliance? How does the county decided how small is small enough? We are going to drive sprawl by bringing small wetlands into the focus group. Buffers will increase with the wetland growth and the land requirement to accommodate populations will continue to grow.

Charnas: They prosecuting attorneys are familiar with GMA portions not being complied with. That is a legal question.

Coppola: Where did the determination of “less than 2500 square feet” and “less than 7500 square feet” come from?

Meyers: With the process and publication of the wetland delineation book through the Army Corps of Engineers, there were some thresholds established. Those were never put into the document. When the first CAO was developed, those definitions were provided for isolated systems. The numbers are nationwide.

1 **Charnas:** Kitsap County has requested a stay with the Superior Court because
2 this provision was appealed from the GMHB to the Kitsap County Superior Court.
3 We want to know the outcome of that appeal so we do not make the same
4 mistake. We expected a decision on the stay on December 8th. This timeline
5 incorporates the presumption that we will need to address both items.

:1775

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7 **Coppola:** When do we need to make a decision?
8

9 **Charnas:** The remand said to have the adoption done by Feb 23, 2007.
10 Appellant groups, in addition to arguing about the wetland exemptions, also
11 argued that a 35' buffer did not protect the functions and values under the fish
12 and wildlife habitat conservation section of our ordinance. Kitsap County used
13 the information to help make decisions on this portion of the CAO from its
14 shoreline master program. The program identifies certain shoreline types based
15 on the level of development and other factors. We did not change the buffer
16 width for urban, semi-rural, and rural shorelines from the 1998 CAO. For those
17 familiar with the shoreline designation map there are large portions that are
18 urban, semi-rural and rural. Many of these have already been improved with a
19 development of various structures. The provisions for existing non-conforming
20 uses were not remanded and were found in compliance.

21
22 **Coppola:** Everything that sits on the shoreline right now is in compliance
23 and if it were to burn down it could be rebuilt on the same spot?
24

25 **Charnas:** Correct. There are some provisions. By the end of this week I
26 anticipate draft language being available, sent to each of you, and being included
27 in the legal notice of the January 9th public hearing. The public hearing process
28 will be much of what we have heard before, but we are required to take these
29 steps to achieve compliance.
30

31 **Gustavson:** Page 28 of the decision: The Board gave the example of
32 Pierce County's only 29 of 179 miles of shoreline being labeled critical.
33 They inventoried the shoreline. I would hope that Kitsap County does its
34 homework and follows Pierce County's example. The only two studies the
35 Board recognizes in the scientific world are a Knutsen and NaeF "streams
36 study only" and Dr. Chris Mays' study which is a "streams study only" in
37 which he compared developed versus natural environments. Without any
38 data he extrapolated that to buffer widths. With no science to support that
39 he further extrapolated to shorelines. There is a wonderful opportunity to
40 do a shoreline impact study. There is very little published on shorelines.
41

42 **Charnas:** I sent your e-mail to the prosecuting attorney's office. They stated
43 that the Department of Ecology does not handle CAO permit issues but they do
44 deal with Shoreline Permits.
45

:2300

1 **Gustavson:** If I want to build a house on the shoreline wouldn't it be
2 considered shoreline activity?

3
4 **Charnas:** You don't necessarily need to get a shoreline permit for it. Page 22 of
5 the remand document provides more details.

6
7 **Nevins:** There was an offer to inventory species and habitats through
8 federal state resources and, as I recall, the property rights folks fought it to
9 the point that it was taken off the agenda.

10
11 **Bolger:** We do have funding from the Salmon Recovery Funding Board to
12 conduct a near shore assessment for eastern portions of Kitsap County. Near
13 shore assessment work has been done on western portions. We will not have
14 this information in time for dealing with this issue. We will be responding to the
15 GMHB issues which are 1) tying the shoreline buffer widths to the environmental
16 designations from the shoreline master plan and 2) that they found, contrary to
17 what we argued, a 35' buffer to be unacceptable.

18
19 **Gustavson:** How will the county deal with this when the information is
20 available?

21
22 **Bolger:** As we get the information we should be able to find tune some of our
23 processes.

24
25 **Gustavson:** What are the delivery dates?

26
27 **Bolger:** Two years for eastern shorelines. This follows on the heels of Pierce
28 County. This is the same way they did their assessment.

29
30 **Gustavson:** Who attended the Appellant Group meeting?

31
32 **Charnas:** The Board looked at our proposed work plan and asked if we could
33 meet with the appellant groups to see what a settlement would look like. At their
34 direction we invited representatives from the group that appealed these two legal
35 issues. It was an informal session.

36
37 **Jenniges:** Wednesday, January 3 is reserved for discussing alternatives.
38 What alternatives are we making reference to?

39
40 **Charnas:** We are developing proposed language. I do not know if we will get
41 the stay on the marine shorelines or not.

42
43 **Coppola:** Thank you.

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10:15 AM

1 **E. Code Revisions and Upcoming Work Items – Jim Bolger,**
2 **Assistant Director, DCD**

3
4 **Bolger:** An Emergency Enactment was adopted by the Board of County
5 Commissioners imposing a 90 moratorium on the acceptance of applications for :2815
6 development in rural zones on non-conforming lots with septic systems designed
7 to accommodate more than six dwellings. This ordinance is in response to the
8 new emerging technology for on-site sewage systems as opposed to on-site
9 septic systems. Historically, Kitsap County has used the minimum lot size for
10 more traditional on-site septic systems to limit development on smaller, urban
11 lots found in a number of rural areas around Kitsap County. The standard
12 technology required aggregations of smaller lots into a single lot to meet the
13 requirement for a septic system and drain field. That is no longer the case with
14 these package plans. In the 10-Year this technology is a way of getting more
15 infill within the UGAs where the traditional treatment plant sewers to the central
16 plant and discharges into the saltwater. But, this has been difficult because of
17 the topography of the area and so forth. These package plans make it more
18 feasible to sewer those areas.

19
20 **Jenniges:** Even the package plans are topographically limited.

21
22 **Bolger:** Some systems report that these waters can be converted into Class A
23 water and that water can be discharged into a receiving body or re-used for
24 irrigation.

25
26 **Nevins:** In light of the power outages, we might want to take a good look
27 at what kind of requirements these systems may need. We may also want
28 to look at other systems that require power for pumping uphill. Some
29 people could get themselves into difficulties without power.

30
31 **Bolger:** The Health Department has asked to be part of this discussion. They
32 would have primary responsibility for approving smaller, on-site septic systems
33 up to 3500 gallons. That is typically a 3-bedroom house; anything larger goes to
34 the state for approval.

35
36 **Gustavson:** Puget Sound Energy may be interested in funding this
37 project. *Notes alternative power projects associated with sewage*
38 *treatment.*

39
40 **Bolger:** These systems now require maintenance providers and, depending on
41 the size, a public entity as a third party to provide surety to the system.

42
43 **Coppola:** Can we solve this problem in 90 days?

44
45 **Bolger:** We are confident we can. It may be as simple as just looking at how we
46 define these technologies. The moratorium requires we have a public hearing

1 within 60 days. It may be extended beyond six months with a work plan. On or
2 before Feb 16th we will be having a public hearing. We have received some
3 requests to hold public meetings in the communities. Some of these
4 communities are satisfied with the higher densities.
5

6 **Jenniges:** The Home Builders Association is supportive of this
7 technology and I think it is a good idea. My concern is that we are
8 jumping ahead of the technology. I am worried nobody will be around to
9 fix the systems if they break.
10

11 ***Discussions held regarding January 9th meeting.***
12

13 **Eric Baker:** The 10-Year update has been approved and will be issued
14 December 20th. We are also working on Phase II Code Development for 2007.
15 There were a significant number of code changes made in the 10-Year Update.
16 There is an overall cleanup that the BOCC has championed for a number of
17 years regarding zoning and subdivisions. We will be working with stakeholder
18 groups to help determine where the inadequacies are in the codes. Those
19 interested in participating in the stakeholder's group please contact Angie Silva.
20 Phase II will be coming to you near the tail end of next year. We are now
21 implementing the regulations that were approved in the 10-Year update and
22 finding facets to be revised. Items that require immediate attention include codes
23 associated with Manufactured Housing. In certain areas we were prohibiting
24 Manufactured Housing which is directly in conflict with our housing goals. This
25 will be presented at a later time.
26

27 **Gustavson:** Will this have an impact on Affordable Housing?
28

29 **Baker:** The Manufactured Housing conflict will have an impact to our affordable
30 housing goals.
31

32 **Jenniges:** There is a significant difference between Mobile and
33 Manufactured Homes. Modular parks are very cost effective for those
34 over 55.
35

Tape 2 :360

36 **Baker:** The code makes the distinction between manufactured and mobile.
37

38 **Jenniges:** The Board of County Commissioners approved the UGAs.
39 Will we be presented with what they approved versus our
40 recommendations?
41

42 **Baker:** Angie Silva will be presenting the differences between the Board's
43 approvals as opposed to the Planning Commission's approvals. There were not
44 many differences.
45

46 **Coppola:** *Requests the Stormwater Manual on disk.*

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A motion was made by Commissioner Coppola and seconded by Commissioner Jenniges to adjourn the meeting.

The VOTE:

Yes: 5

No:

Motion carries

Meeting adjourned: 10:35 AM

EXHIBITS

- A. Silverdale Downtown Design Guidelines Schedule/Process
- B. Work Plan on the Critical Areas Ordinance Remand Cover Letter
- C. CAO Remand: Draft Work Plan to Achieve Compliance
- D. Section 19.300.315 A – FWHCA Buffers. Wetland Identification and Functional Rating.
- E. Section 19.200.201 A – C Wetlands. Development Standards.
- F. GMHB CAO Final Decision
- G. Ordinance 371-06 establishing a 90-Day Moratorium on certain rural developments.

MINUTES approved this _____ day of _____ 2007.

Printed name: _____, Chair

Christina Lindner, Planning Commission Secretary