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MINUTES
KITSAP COUNTY PLANNING COMMISSION
Public Hearing
Kitsap County Fairgrounds and Events Center
6:30 PM, January 9, 2007

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

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The Kitsap County Planning Commission met on the above-stated date at the Kitsap County Fairgrounds and Events Center located at 1200 NW Fairgrounds Road, Bremerton, WA 98311. Members present: Dean Jenniges, Tom Nevins, Michael Gustavson, Lou Foritano, Fred Depee, John Taylor, Linda Paralez, and Brian Bekeny. Staff present: Scott Diener, Patty Charnas, Jim Bolger, Larry Keeton, Jeff Rowe-Hornbaker, Val Koehler, James Weaver, Dave Greetham, Lisa Lewis, Kathleen Barnhart, Dave Tucker, and Planning Commission Secretary, Christina Lindner.

00:12:30

6:40 PM

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- A. Commissioner Taylor calls the meeting to order and introduces the Planning Commission members present.

6:45 PM

- B. Election of Officers

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A motion was made by Commissioner Nevins and seconded by Commissioner Gustavson to elect John Taylor as Planning Commission Chair.

The VOTE:

Yes: Unanimous

No:

Abstained:

Motion carries

A motion was made by Commissioner Bekeny and seconded by Commissioner Gustavson to elect Lary Coppola as Planning Commission Vice Chair.

The VOTE:

Yes: Unanimous

1 **No:**
2 **Abstained:**
3 **Motion carries**

6 **6:50 PM**

7 **C. Approval of Planning Commission Meeting Minutes**

8
9 **A motion was made by Commissioner Nevins and seconded by**
10 **Commissioner Bekeny to approve the minutes of December 19, 2006.**

11 **The VOTE:**

12 **Yes: 4**

13 **No:**

14 **Abstained: 4**

15 **Motion carries**

17 **6:55 PM**

18 **D. Low Impact Development and Storm Water Drainage Code**
19 **Change Deliberations - Dave Tucker, Public Works**

20
21 **A motion was made by Commissioner Gustavson and seconded by**
22 **Commissioner Jenniges to move the LID presentation to the end of the**
23 **meeting.**

24 **The VOTE:**

25 **Yes: 5**

26 **No: 1**

27 **Abstained: 1**

28 **Motion carries**

29
30 ***Discussions held regarding the importance of the topic of Low Impact***
31 ***Development topic versus the Ordinance Remand topic.***

32
33 **00:27:30**

35 **6:57 PM**

36 **E. Proposed Amendments to Critical Areas Ordinance Public**
37 **Hearing, Patty Charnas, Manager, Natural Resources, DCD**

38
39 ***Patty Charnas presents overview of the issues, background, and the***
40 ***proposed actions on the remand by the Growth Management Hearings***
41 ***Board of two sections of the Kitsap County Critical Areas Ordinance.***

42
43 ***Gustavson requests a clarification on notice to title, buffer fencing or***
44 ***delineation, native vegetation requirements, trails in the buffer and how***
45 ***the additional small wetlands affects wetland sprawl.***
46

1 **Charnas:** Notice to title, buffer identification, native vegetation requirements,
2 and trails in buffers are not part of the remand and remain in effect. The last
3 topic would be best discussed during deliberations.

4
5 **00:45:20**

6
7 **Harry Bechtel:** This topic impacts waterfront property owners more than those
8 that live downtown. In fact, the citizens along the shorelines sued the State of
9 Washington to protect the property. We have steps in place to monitor sewage,
10 shoreline protection, and run-off. The Enatai Beach community is also
11 monitored. The Health Department stated they could not clean our stream
12 because people upstream could not afford to make the repairs to their failing
13 septic systems. With this ordinance I have undeveloped property that does not
14 have sufficient space. I have no provision in my tax reduction but I must maintain
15 that property. Fish and wildlife have told me salmon are spawning in front of my
16 property. 86% of the Kitsap shoreline is now developed. The remaining 14%
17 have plenty of restrictions in place at this point. I would like to eliminate the
18 restriction.

19
20 **Jacob Metcalf:** I am with Young Democrats of Kitsap. I agree that affective
21 marine buffers can protect critical near shore processes, functions, and values. I
22 believe this is an excellent first step in adapting to massive environmental
23 changes. In the Kitsap County Commissioner District 3 Election of 2006, 49,372
24 said “yes” to environmental protections. You have a broad mandate to protect
25 the environment and greater good of Kitsap County.

26
27 **Jean Rulette:** I live at Lake Tahuyeh and I am a waterfront homeowner of three
28 lots. We purchased the two lots next to us so our children could build. For 24
29 years we have been paying waterfront taxes on these lots. In the last three or
30 four years we have been working with the county to build a bulkhead to protect
31 the property. The lot my daughter wishes to build on is 119 feet deep. According
32 to what I read here, it will be a 165 foot buffer. This lot is not buildable. For 24
33 years we’ve been paying taxes for nothing. I do not understand why it is jumping
34 from 35 to 150. There must be room for compromise. One grumpy neighbor
35 should not be able to prevent me from building. There is no lot on our lake 150
36 feet deep. Nobody on our lake would be able to build. Please reconsider the
37 150 feet being mandatory.

38
39 **00:55:25**

40
41 **Bob Burkholder:** I’m a resident of Bainbridge Island and have been for 25
42 years. I helped write part of the comprehensive plan for Bainbridge Island. Most
43 of us know the key requirement of the GMA is that cities and counties identify
44 and protect the natural environment’s most critical areas including near shore
45 habitats. Puget Sound is in tough shape. Our governor is emphasizing the
46 importance of restoring Puget Sound to the tune of \$220 million. The tragedy of

1 hurricanes stresses the vital importance of these critical areas to our community.
2 Had not the extensive wetland deltas protecting that city been channeled and
3 further compromised by near shore developed, impacts of hurricanes would have
4 been lessened. We could possibly make similar mistakes in Kitsap County. Our
5 CAO should be about protecting sensitive habitats, not about devising
6 regulations to allow maximum encroachment on these natural God-given areas.
7 The GMHB has recognized that fact. I think the recent election provided you
8 another chance to demonstrate your dedication to clean air and clean water.
9 There are those who would rather put their personal gain above the welfare of
10 our community. Decisions are either for the common good or common greed.

11
12 **Rod Reid:** I am a South Kitsap resident and landowner. I am disappointed you
13 did not take general questions prior to testimony. Is Bainbridge Island part of this
14 remand? Do cities have their own critical areas? Is the urban we're speaking of
15 not part of a city already? How do public roads like Beach Drive figure into the
16 picture? Do these roads change the designation or does the road become part
17 of the 150 feet?

18
19 **Dave Greetham:** The ordinance changes apply to unincorporated Kitsap
20 County, not the cities.

21
22 **Depee:** Is a LAMIRD considered unincorporated?

23
24 **Greetham:** Yes. To Rod's second question, if we treat Beach Drive like we treat
25 other buffers in the ordinance, the road would create the stop point to the buffer.
26 We would not leap over the road and start the setback for a homeowner on the
27 other side of the road. The buffer would stop at the road.

28
29 **Gustavson:** If the buffer stops at the built environment, does the buffer also
30 stop at the bulkhead?

31
32 **Greetham:** No. The bulkhead is typically at the shoreline edge where the
33 setback starts.

34
35 **Gustavson:** Somebody living on the other side of the road, would not be in a
36 buffer?

37
38 **Greetham:** This has not been solidified yet because it is a new proposal, but if
39 we treat it the same as other buffers in the code, that is how we propose to treat
40 it.

41
42 **Foritano:** To Rod Reid, do you consider the remediation process onerous?

43
44 **Rod Reid:** Cost is going to be a factor. I think we have to be careful about
45 others dictating what we do while not compromising the shoreline.
46

1 **Foritano:** Is your objection on cost, principal, or both?

2

3 **Reid:** Both

4

5

01:04:30

6

7 **Gary Lindsay:** I reside in Silverdale and I am a waterfront owner in Chico. I ask
8 that the urban growth boundaries have the same regulations today for the
9 waterfront setbacks and for you to reconsider the removal of exemptions for
10 wetlands. A great deal of nonconforming uses are going to be created within the
11 urban growth boundaries and a significant number of waterfront homes will
12 become nonconforming.

13

14 **Lois McMahan:** I live in Olalla. The GMA requires that the best available
15 science be considered in developing policies and development regulations. The
16 2004 Fisheries and Aquatic Report of Marine Experts in King County and the
17 Puget Sound Action Team members found insufficient evidence in the scientific
18 literature to recommend any specific width of marine buffers. The largest factors
19 affecting Chinook are ocean food supplies, spawning habitat, and commercial
20 and tribal fishing. Six years ago, state senator Bob Morton rented a small plane
21 and flew up the Columbia River. He observed that every stream flowing into the
22 Columbia had a tribal net stretched across its mouth. We can gather from this
23 observation that the lack of Chinook is not an environmental issue but rather a
24 result of fishing. The fourth factor is predation by marine animals. Seals in Elliot
25 Bay feed on the salmon returning to spawn in their streams of origin. The fifth
26 factor is pollution from roads and industries. The National Marine Fisheries
27 Service's internal designation of all Puget Sound shorelines as critical habitat is
28 not the best available science. Freshwater riparian studies are not relevant to
29 title shorelines. They can no more classify all of Puget Sound and Hood Canal
30 as critical habitat, than they can the entire Pacific Ocean. The GMA gives local
31 jurisdictions the authority to decide these issues, so please don't allow an
32 unelected board of non-scientists to push the County around. Stand up for local
33 control as the GMA intended.

34

35 **Bernie O'Dea:** I am against the 150 foot setback. If passed, a person owning
36 one acre will not survive. I would like to see buffer reductions remain at 35 feet
37 with best management practices.

38

39 **John Cambalik:** I am the regional liaison for the Puget Sound Action Team. Our
40 comments are directed only at the marine shorelines. We appreciate and
41 support the County's work to propose an increase in the standard buffer width
42 from 35 feet to 150 feet. We recommend staff and the Planning Commission
43 consider an increase in buffer width for those marine shorelines that are
44 classified as natural and conservancy exceeding the 150 ft buffer for other areas.
45 We would like to reiterate our statement in our last comment letter that standard
46 buffer widths may not effectively protect the functions, values, and near shore

1 processes that fish and wildlife depend on along the marine shorelines. We
2 encourage the County to closely track the scientific recommendations so that
3 even stronger protective measures along the marine shorelines can be
4 implemented in the future. We recommend the Planning Commission retain the
5 formal variance process for all permit requests to reduce marine shoreline buffer
6 widths included in the expert review of Washington Fish and Wildlife staff on the
7 permit and the habitat management plans.

8
9 ***Gustavson requests data regarding fish scales and fish survivability.***

10
11 **01:14:50**

12
13 **Jay Robertson:** I live in the Suquamish area where many lots do not even go
14 back 150 feet. I work for Windermere in Poulsbo and deal with shoreline
15 properties. Taxes have gone up as well as waterfront property prices. People
16 restricted to build on these are not going to be able to build their homes. Will this
17 ordinance be going into effect February 23?

18
19 **Chair Taylor:** That is when the BOCC will be making a decision. The
20 Growth Hearings Board gave us until 23rd to respond. The date is to be
21 determined.

22
23 **Bolger:** The Growth Hearings Board set February 23rd as the deadline to take
24 legislative action. It would be the Board's adoption of the revisions to the CAO.

25
26 **Robertson:** If somebody has a current building permit in process, is it affected
27 by this change?

28
29 **Greetham:** State law vests you under the rules on the day you applied for your
30 building permit. Any existing permits ahead of any changes that have been
31 applied for, but not approved, are vested under current rules.

32
33 **Frank Leach:** I live in Poulsbo, I own property in Silverdale and I am a realtor
34 that handles many waterfront property owners. I'm representing Julius
35 Templeton. None of us in this room were able to vote on the GMA. We were
36 able to vote on I- 547, which was soundly defeated because the citizens in
37 Washington State were concerned about having issues taken out of their hands
38 and that people living outside the community would be making decisions for
39 those that do. I am concerned about the buffers in Kitsap County. Best available
40 science seems to be sidelined based on the GMHB's mandate to correct this
41 issue. I do not see anything in the documentation that recommends 150 feet. I
42 would ask the Planning Commission to consider where we are at 35 feet and not
43 to embrace the 150 foot buffer.

44
45 **01:21:15**

1 **Glen Jorges:** I live at Enetai Beach and I'm representing 22 property owners.
2 We oppose the 150 feet. The Critical Areas Ordinance took a lot of our back
3 property away causing it to be non-usable. It took away 50% of my land. I am
4 being taxed for a buildable site, but the county considers it unbuildable. Enetai
5 Creek runs through our properties. It has been one of the most polluted creeks
6 in Kitsap County. Septic systems are failing. There are slides along the area
7 that have nothing to do with homeowners. There is no longer a salmon
8 population in Enetai Creek. The State Sound Report released in 2005 said the
9 leading problem with Puget Sound is stormwater pollution. A 150 foot buffer is
10 not going to change that. The San Francisco Bay area is able to substantiate a
11 100 foot setback. We disagree with 150 feet; leave it the way it is until a more
12 appropriate science can show us that 150 feet is better than 35.

13
14 **Mary Bertrand:** I represent the Chums of Barker Creek. This is about the
15 problem of the one and the many. This is about the wants of a minority for the
16 present and the needs of the majority for the future. This is about a tunnel vision
17 look at survival or a holistic view of the requirements of unpolluted water and air
18 for the health of generations to come. This is about the argument that the GMHB
19 controls our lives versus the fact that their decisions are truly based on best
20 available science. This is about "What's in it for me?" versus "What is good for
21 the community as a whole?" It is about how each of you perceives the wants of
22 the few over the needs of the many.

23
24 **Leo Schilling:** I am from Bainbridge Island. It is very likely that whatever is
25 adopted here, will likely be adopted on Bainbridge Island when their shoreline
26 master plan is updated. My neighbors and I have 150 feet behind our lots. If we
27 had this 150 foot buffer, a permit would not be issued to do that. I would
28 appreciate an explanation of what can be done in addition to what cannot be
29 done.

30
31 **Tom Donnolly:** I live in South Kitsap at a distance from marine shoreline. I
32 speak on behalf of Citizens for Responsible Planning. KCRP believes the
33 actions proposed by the County will satisfy the Hearings Board objection to the
34 Critical Area Ordinance. Recent discussions among parties about compliance
35 reveal that the shoreline designation will need modification to meet the standards
36 of the new shorelines management act. The conservancy shoreline buffers and
37 natural shoreline buffers are not likely to provide adequate protection in the
38 future. However, natural features may continue to afford protection. There is
39 signification merit to immediate action to create harmony between the shorelines
40 management plans and the CAO. Such a project would be complex and
41 disruptive of the County's work schedule. More to the point, it is not necessary to
42 comply with the Hearings Board remand. KCRP recommends that the Planning
43 Commission endorse the staff proposal for compliance and recommends that the
44 County undertake the project to update and integrate the critical areas in
45 shoreline plans in the near future.
46

01:31:35

1
2
3 **Faye Henden:** My husband and I have lived on our property in Poulsbo for 41
4 years and have raised five children there. We want to see the county prosper. I
5 hear confusing statements about quality of life and economic development.
6 From what I hear they are very inconsistent. We cannot have both. Please
7 consider the restrictions you are putting on the citizens of Kitsap County. Please
8 consider that the buffers have not been scientifically proven. We are grabbing at
9 things that we don't even know work. We want to see the county taken care of.
10 We need an advocate for the citizens.

11
12 **Break: 8:15**

13
14 **Tim Matthes: *Reads William Palmer's written testimony:***

15 Seldom do legislative bodies have to work with the regulations that they pass.
16 Consequently, they do not as a rule appreciate the absurdity of "one-size-fits all"
17 rules. Kitsap County and one has to include state agencies in these comments,
18 seldom if ever take time to study a problem, before solutions are drafted. As
19 decision makers, what one of you has taken the time to analyze a site to
20 determine how rules that are now in place actually work out? The answer to that
21 question based on observations over a 24 year span of time is almost never.
22 That is irresponsible government. To make matters worse, you set such short
23 time frames for public notice and citizen comment that by design you clearly do
24 not want to hear from the people most affected by the rules. There is no
25 evidence that proposed changes in regulations will better address KC
26 environmental circumstances. In short, where is the evidence that the proposed
27 changes are justified? Since KC has not taken the time to evaluate the potential
28 effect of the proposed regulations, it will be faced with either paying monies to
29 compensate property owners or it will clog an already over-burdened permit
30 review process with variance applications, reasonable use exceptions and
31 administrative determination appeals. KC has not address how the existing
32 structures and on-site improvements will be affected by the rule changes
33 contemplated. Please note that one of the flaws of your 2005 adopted CAO is
34 the definition of "Non-conforming use or structure". Also consider the fact that
35 there is no allowance for conformity in the wetland/buffer, stream buffer, steep
36 slope setback or geologically hazardous slope setback regulations. Imagine the
37 lawsuits brought against the County as a result of this oversight. This is an
38 instance when the County is setting itself up for a lawsuit or the need to provide
39 compensation for lost development rights to property owners. The CAO is not
40 based on any serious study of the shoreline areas and makes no such
41 environmental distinction. Therefore the County can not justify the proposed 150
42 foot buffer any more than it could defend the 35 foot existing buffer requirement.
43 More important than these facts is the Kitsap County cannot preempt the work
44 required in the SMP update with CAO regulations. There is more that could be
45 said and, if time permitted, examples can be presented as to how the proposed
46 rule changes would be implemented. However, it seems apparent it is not

1 interested in fact. If the Board seriously wants to pass legislation appropriate for
2 Kitsap County then the County needs to do its homework, study the issue in
3 detail and allocate enough time to hear from your constituency. Otherwise it
4 appears that the Board is nothing more than a gutless lackey of state agencies.
5 Also, it might be added that key state agencies have failed to do their homework
6 as well and these comments are directed at the State Department of Ecology and
7 the State Department of Fish and Wildlife. These state agencies want Kitsap
8 County to implement regulations that are not based on field studies either in
9 Kitsap County or Western Washington. Why the rush?

10
11 **00:04:55 (2nd Audio File)**
12

13 **Bob Benze:** I'm an environmental engineer and a property owner residing in
14 Silverdale. The County's own scientific experts recognized that the best
15 available science was both species specific and site specific. Instead of mapping
16 streams and shorelines to find areas where there is important habitat, the County
17 elected to classify all stream banks and shorelines as critical area and apply
18 highly generalized buffer zone criteria everywhere using buffer studies that, in
19 most cases, do not even apply to Kitsap County species or habitat. The best
20 example of stream mapping is the Maryland Stream-Mapping program. The 150
21 foot buffer being proposed has no more scientific justification than the previous
22 specific buffers. They are just larger blankets to ensure everything is covered. I
23 do not believe this is about preserving the land for species. Most wildlife in the
24 county is thriving. In the entire county no more than 5% of the land is developed.
25 I suspect the real reason is more political than scientific. It's more about the use
26 of the political system by people who want to retain the aesthetic values they
27 enjoy through the use of government regulations to impose controls all without
28 having to pay the property owners for the privilege. In Britain and Sweden the
29 government purchases the land, at least the development rights, when they want
30 to avoid sprawl and preserve open space. I propose the ordinance not be
31 approved, until the best available science approach is employed using site and
32 species specific criteria.

33
34 **Karl Duff:** I live in South Kitsap and I am a waterfront property owner. This
35 County elected to take what the Department of Ecology calls best available
36 science. You will find that Kitsap County is bringing up the rear. We have the
37 strictest codes, buffers, and over-reaching demands of all the counties. I am
38 going to defend my property rights. I will not pay variance fees and go through a
39 hearing examiner to try and buy back my property even to get a 75 foot setback.
40 The county has bland statements of grandfathering, but has no definition of a
41 grandfather clause. There are no cast exceptions to avoid variance processes
42 for people trying to buy back their property. I do not know whether the real issue
43 is the incompetence of the staff or the policy of the Commissioners.

44
45 **00:13:40**
46

1 **Jenniges:** Please resubmit your data.
2

3 **John Holmberg:** I live on Dyes Inlet and I have a functioning septic tank that is
4 well maintained. I don't understand how an additional 150 foot is going to help
5 the fish and clams. I think we should get off the backs of the small landowners
6 and go after the big operators. The City of Bremerton had 10 combined sewer
7 overflows last year. They have two already this year.
8

9 **Eric Sandall:** I live on Tracyton Beach Road. I have 5 tax parcels affected by
10 the issue. I don't understand why 10% of the people that haven't developed their
11 waterfront properties have to be penalized to build a sub-standard home that
12 would sit back in a tunnel. The waterfront issue has always been that you can't
13 build beyond someone to mess with their view, but here we are putting them
14 back in a tunnel. At least 60% of the waterfront is a high bank waterfront that
15 already provides a natural buffer. You can't do anything with it. All counties in
16 the Puget Sound area should be working this issue together. Here we are taking
17 great expensive chunks of land. There will be an abundance of rich lawyers
18 when this is all over.
19

20 **Harold Erickson:** I live in Kingston. The Seattle view tracks were created about
21 80 years ago. There are 61 waterfront tracks on one side and 50 on the other
22 side. There is only one decent, buildable lot on the waterfront side. The rest
23 have all been built on. It's difficult for me to understand how restricting one lot on
24 this road is going to have any effect on quality of water in Puget Sound. Most of
25 these homes were built on the idea that you can't block your neighbor's view.
26 Now one lot has to be behind all the others. When tide is out the land is rock
27 and dirt with no vegetation. There are no trees on the vertical bank. A few
28 people who own this waterfront property are selfish and greedy and don't want to
29 accept being restricted for the public good. I worked many years to earn the
30 money to live better than my dad did when he retired. If they are saying we
31 should give something up out of the goodness of our heart, I say no. If you want
32 us to give up a place for our kids to live next to us, then you pay for the cost. It's
33 not our burden because we worked hard to buy this property. I resent a group of
34 people who don't own this property and make rules.
35

36 **Jack Hamilton:** I live in the Seabeck area. Citizens are told that the revisions
37 do not impact existing development. The CAO does not agree with or support
38 that conclusion. Specific sections of the law make it clear that all identified
39 Critical Areas are subject to regulation. The only difference is the process under
40 which the regulations are applied. All shoreline properties of the county,
41 regardless of level of development, are by definition critical areas and subject to
42 all regulations regarding critical area. Since the new buffers will be 150 feet and
43 most properties are 150 or less in depth from the shoreline, most shorelines will
44 become buffers in their entirety. Those properties not already developed will be
45 unavailable for development because buffer mitigation will not be available for a
46 reasonable cost. Future development action on those properties will be

1 precluded. The revision will make all shoreline property non-conforming, under
2 the regulations, and subject to the variance for any future developments. It
3 makes every location with standing water subject to determination as a wetland.
4 Because every shoreline is designated as critical area and because the ability to
5 establish a wetland is now wide-open, those areas are also subject to action by a
6 group bringing complaint or legal action against the owners. This action is
7 against people, not some intangible thing called shoreline.

8
9 **00:27:45**

10
11 **Reed Burch:** Much of the material I have read from the county is spurious. The
12 science does not follow through with the positive impacts of those living on the
13 shorelines. There are hundreds of things that are not discussed that can mitigate
14 anything concerning shoreline. The organization that has the most experience
15 with remediation of shorelines is the Army Corps of Engineers. They will tell you
16 that these bulkheads are not the best bulkheads to have.

17
18 **Rob Ballard:** I am from Manchester and I think we're good stewards of our
19 waterfront community. Our sewage system is impeccable, we have a salmon
20 enhancement procedure for our creek, and we are concerned about the
21 environment. We are 100% built out and we are within 150 feet of shoreline.
22 This revision will have nothing to do with enhancing salmon habitat. We are
23 against the 150 foot setback. South of Manchester is the non-sewer area. The
24 Health Department found 43 failing septic tanks out of 200 some homes. Those
25 people have been fixing their tanks which will enhance the salmon habitat.
26 Implementing the 150 foot buffer will bring geologically hazardous areas back to
27 ground zero, even after septic, well, and bank regulations have been followed.

28
29 **Jean Bradford:** I don't own waterfront property but I'm a realtor and deal with
30 people who do. Many people will lose their view if they have to build so far away
31 from the water. Buffer and setbacks would deny them the right to build stairs to
32 the beach even if they have a couple of acres. For those who say this is for the
33 good of the majority, I say this is socialism and a violation of our state and
34 national constitutions. Some of our own county employees and a former county
35 commissioner will soon be living under non-conforming use. Will they manage to
36 avoid the rules? Why aren't county employees in front of the microphone?

37
38 **Brad Buskik:** I live on Chico Way on 100 feet of waterfront and I've lived in
39 Kitsap County for over 50 years. First thing we had to do was hook up to sewer
40 because the Health Department considered us a hot spot. They checked out the
41 septic tanks and found that we were leaking one gallon of untreated sewage a
42 year. Millions of gallons are being spilled into Dyes Inlet because of failed
43 systems. In the storm of 1996 I lost 50 feet of my sea wall, which I had to
44 replace. I was told it was prime smelt spawning. 6 months ago, 30 Native
45 Americans were harvesting clams on my beach. A few months ago I cut back
46 some brush to maintain my bank and was issued a stop work order. I

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1 understand erosion and the environment and I can't see how a 150 foot setback
2 is going to help with our prized water environment.

3
4 **Richard Ambur:** I have lived in Kitsap County for 40 years. 90% of nitrogen
5 going into the Canal comes from surface water and regional water, not septic
6 systems. I might be thrown off my land because I live less than 75 feet from the
7 water. I have lived there almost 30 years and nothing has changed. Nothing
8 needs fixing where I live. I can't speak for other areas of the county but I can't
9 see why we should be punished for what is wrong with somebody else's
10 property.

11
12 **00:43:34**

13
14 **Bill Matchett:** I'm from Nellita on Hood Canal. I'm speaking for the Hood Canal
15 Environmental Council. We have been trying to preserve the natural wonder.
16 The shoreline that is already built up is not going to change, but we are trying to
17 save a small percentage of the remaining shoreline. I recognize that some
18 property cannot be built on, but I don't know how else to save it.

19
20 **Rick Boston:** I live in Lakebay. I do not own a waterfront home but I own 2.7
21 acres on Long Lake Road. I've been saving for 30 years and I plan to build on
22 that land. I think the implementation is unfair and doesn't accomplish anything.
23 95% of lots are already built. People are saving that land for retirement. If this
24 law is passed my house has to go on the other side of a gravel easement. I will
25 lose my waterfront view and waterfront access because I will be looking at the
26 back of other houses. My house will not affect any fish whether it is 60 feet or
27 150 feet back from the water. The septic pump is back 250 feet already. That's
28 a non-issue. I won't pollute the water and I'm not going to affect birds and bugs.
29 I don't see why there's any problem being 50 feet from the water. Why go after
30 small guys? No private citizen should provide public benefit for all others. I
31 think this is a terrible abuse.

32
33 **Beth Wilson:** I live in Olalla and represent West Sound Conservation Council.
34 Many of us get our water from wells. It is important for us to protect the aquifers
35 that we are living on. The wetland issue is pertinent for well protection and
36 flooding. If we let our wetlands go, we will experience even more flooding.
37 Please continue to expand protection on wetlands. The saltwater shoreline
38 buffers at 150 feet protect Puget Sound and Hood Canal from pollution, they
39 protect the shoreline property owners and their investments from erosion and
40 reduce the need for costly shoreline armoring in the future. It will protect wildlife
41 and salmon. Please adopt the proposed ordinance.

42
43 **00:53:13**

44
45 **Steve Jennings:** I live in Central Kitsap and have land in North Kitsap, none of
46 which is on a shoreline. It's troubling to me to know that the Growth Management

1 Hearings Board can say “not good enough”. Because they are directing us to do
2 this I hope there is some feedback from the Planning Commission. I would like to
3 get a sense that you are fighting for us. If this rule applies, it seems like one rule
4 will apply to all lots. Certainly there are some areas that need to be protected but
5 I can’t imagine that every lot in Kitsap County needs 150 foot setbacks. If the
6 County does decide to adhere to this, maybe they should buy the land or tax it
7 accordingly. If the owner can’t use the land, they shouldn’t be taxed.

8
9 **Vivian Henderson:** I’m with Kitsap Alliance of Property Owners. I do not have
10 wetlands and do not have waterfront property. I am here to protect those who do.
11 Once again I’d like to remind the County that a requirement of the GMA is to
12 ensure public participation. It can be found in RCW 36.78.140. The county has
13 ignored this requirement. This proposed legislation before you is the most
14 audacious violation of the public trust I have ever seen. The county informed
15 citizens they don’t have the luxury of apprising us of what they are stealing from
16 us. The county is falling all over itself to meet unreasonable deadlines imposed
17 upon us by a board of three unelected people accountable only to the governor.
18 They are not influenced by you at all. Unless citizens vote for the people to go to
19 Olympia, that will take away the Board’s unlawful, unconstitutional power. Voters
20 don’t seem to want to do this. I don’t see our elected officials on the local level
21 making even the slightest attempt to protect property owners against these
22 thugs. They are sanctioning theft of what is rightfully ours; the use and enjoyment
23 of our property and our local elected officials are aiding and abetting them.
24 Secondly the County is not being honest with their citizens. County staff has
25 purposely misrepresented the effects of these regulations on existing developed
26 property. Every attempt has been made to leave property owners out of the
27 process, avoid this public hearing and create utter confusion as to where it will be
28 held. Planners have been the most public source of information to property
29 owners because of articles in the Sun. Evasive, misleading and ambiguous
30 statements were made in response to the reporter’s questions. Depending on
31 your soils, the Health Department could approve a gravity system replacement at
32 a cost of \$5,000 or less, but the County Planning Department will not allow a
33 gravity system because it would disturb native vegetation. They will only approve
34 a \$30,000 alternative system. These systems have a high rate of failure. The
35 County will have complete control over unimproved lots because applications
36 must be made for permits before anything is done. It’s a different story with
37 existing improved lots.

38
39 **Gary Johnson:** I don’t have waterfront property. Shoreline buffers are a
40 problem. I think a larger problem is the elimination of a minimum size for
41 wetlands. According to the law as proposed, every puddle that has a reed
42 growing in it would have to have a 150 foot buffer zone growing around it.
43 Property purchased for over \$1 million an acre a couple of years ago has three or
44 four small wetlands on it, a total extent of less than 400 square feet. Because of
45 that, this entire property is unbuildable. We can’t build Silverdale Community
46 Center. That property is unbuildable and is a total waste of taxpayer dollars.

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01:03:45

Theresa Osinski: I work with the Home Builder’s Association of Kitsap County. The issues surrounding any attempt to define, control, or protect privately owned property is complicated. The County now has the unfortunate obligation to open an old wound. These are important matters dependant upon prudent resolution. Failing to control buffer sizes will exacerbate the County’s Growth Management Act. The effect of this ordinance will have a financial impact on land development and construction companies, county revenue potential and tread on the rights of all private land owners of shoreline. These are realities and aren’t intended to sound pejorative. We ask that you seek creative solutions and that you exercise restraint. The HBA asks that you consider a smaller urban specific buffer separate from the rural and semi-rural buffers that you may choose, though we do believe all the buffers proposed are too high. In doing this we believe you will find a balance that is consistent with your density goals, they will diminish a barrier to UGA development and will recognize Kitsap’s unique quantity of urban land affected by shorelines. Other urban areas have adopted shoreline buffers much smaller than the ones staff has proposed. Unincorporated urban growth areas should be treated consistently. Secondly the association asks that you consider the city of Bremerton’s CAO language which allows the use of low impact development techniques in the buffers along wetlands and streams and incorporate that same type of language in your shoreline buffer text. An area of significant concern is protection of water quality for habitat. The science of evaluating the impacts of LID techniques has proven that such techniques are positive water quality mitigation tools and do protect shoreline habitat. Finally the association appreciates the proposed language allowing the department to consider and approve smaller buffers in certain circumstances. For this to be significant it is essential that the director be empowered to consider the unique site conditions of each buffer reduction application and apply the regulation considering the specific circumstances of each site. Only if each individual site is fairly evaluated will the administration buffer reduction process be meaningful.

Foritano: Does your association consider the proposal reasonable or unreasonable?

Theresa Osinski: Personally, I think it is vague. The HBA would be more comfortable if there were teeth put into it. We’d like to see a process that people can bring forward.

Don Flora: I’m from Bainbridge Island. I submitted a list of 20 things that wider buffers will not accomplish. You’ve heard that marine biologists agree that there is no research showing that Chinook will benefit from buffers. Is a long strip buffer above Kitsap tidelands useful for upland reasons? How should the county design spaces for wildlife? Decide on wildlife species of local concern then set

1 up some criteria. Define wildlife. Find out the limiting factors that control critter
2 welfare for each species. They may have nothing at all to do with habitat. Decide
3 how many of what kinds of wildlife you want, including the County's share of
4 endangered species then have a census done. Decide how you are going to
5 adjust whatever limiting factors you've identified and where you're going to do it.
6 Again, the limiting factors may have to do with predators or pray and have
7 nothing to do at all with habits. Do this on a localized basis. How are you going
8 to write a habitat management plan for a 100 foot lot for wildlife that is intrinsically
9 mobile? You may or may not discover that you need wider buffers in the process.

10
11 **01:11:25**

12
13 **Jack Bailey:** I live near Brownsville Highway and I am a waterfront property
14 owner. My home is 25 feet from the waterfront. I have an over abundance of
15 otter, Canadian geese, eagles, and deer. I have the only piece of private
16 property on Ground's Bay. The rest of it is highly armored and owned by the
17 County. Next to my property is a bridge. The County put a plastic bulkhead in
18 front of it. They removed the natural vegetation and left crushed rock above the
19 buffer. A third of my property is under water. I'm Port Commissioner and if you
20 pass these revisions, you will eliminate recreation from Kitsap County. The ports
21 provide recreation for Central Kitsap. I go to meetings with Washing Public Port
22 Commissioners and represent 53 ports. Kitsap County ports have the hardest
23 time getting anything accomplished on the water.

24
25 **Thomas Averill:** I own property in Driftwood Keys. I was very concerned that a
26 long buffer would cause me to build on the street behind me or in my neighbor's
27 front yard. I am one of ten waterfront properties that remain undeveloped. The
28 land around it has been filled with coverage material. During break, a staff
29 member recommended I apply for a variance. Pierce County has an infill
30 provision. Maybe you could write into your code a means of coping with this
31 decimation. Almost all of the building that has previously occurred, and what has
32 turned out to be a high density area, can be written into the code that a variance
33 isn't required.

34
35 **John Rose:** I'm with Olympic Property Group. We want as little public policy as
36 we need to get things done properly. We want a balance of stewardship and
37 hardship. Putting a 150 buffer on an urban area is picking a fight. It's already in
38 an area centered on people. Perhaps we're not quite as balanced on
39 environmental issues. The effect is going to be minimal; the angst is going to be
40 maximal. Make sure you're comfortable before impacting these folks' properties.
41 Let's focus our energy where there is something left to save. An unregulated
42 wetland with a 50 foot buffer would cause the total buffering to be almost 8,000
43 feet. The idea of saving a small wetland within an urban area so that we take
44 one lot's worth of development away and push our urban core out a little quicker,
45 is not what we're trying to get done. Every foot of buffer needs to work. The

1 smallest buffer should be getting the most effect. Targeting urban areas that are
2 almost completely developed is not strategic.

3
4 **01:23:40**
5

6 **Gary Tripp:** I'm from Bainbridge Island and I represent a group of property
7 owners. We're concerned about the decision you're making and the process.
8 The GMA leaves the decision on protecting Critical Areas to the local jurisdiction.
9 It does not leave it to an unelected board or some state agency. The local
10 jurisdiction is tasked with weighing the critical areas protection, property rights,
11 affordable housing, etc. You cannot let an unelected board dictate to you. They
12 don't have any recourse if you tell them off. You are also in violation of
13 Engrossed Substitute House Bill 1933, where the state legislature said not all
14 shorelines are critical areas. Second, they are not regulated under the GMA.
15 They are regulated under the SMA. You have a separate process for dealing
16 with the shoreline. You should include in the CAO a statement which says we
17 recognize the shorelines contain some critical areas. Those are currently
18 regulated under the existing SMP. Changes to the SMP will be taken care of in
19 its normal process, not put into the CAO. I produced a document which analyzed
20 all of the DOE's best available science. 80% of the benefit from buffers is gained
21 by the first 50 feet. In a 2004 meeting of marine scientists, they broke up into
22 small groups after discussing all the best available science to decide what they
23 could recommend as appropriate buffers for marine riparian zones. Not one of
24 the 7 groups came back with a recommendation. Are you are going to take the
25 uninformed opinion of an unelected board and impose this county wide? You're
26 going to create 80% of your entire waterfront as non-conforming. The purpose of
27 non-conforming classification is to remove the non-conformity over time. It's not
28 to allow it to exist. If you are going to allow it to exist you would designate it as
29 existing conformity. Designating it non-conforming intends to remove it over
30 time.

31
32 **Nancy Hahn:** I live on Scandia Creek and I'm concerned about leaving a good
33 legacy for my kids. I think it's time for this County to establish the appropriate
34 buffers. We need to preserve the natural environment. I agree with Mr.
35 Burkholder and Mrs. Bertrand. Please weigh all the pros and cons.

36
37 **Cyrilla Cook:** I am representing 602 members of Puget Sound. Whatcom
38 County adopted 150 foot shorelines in 2005 and Snohomish County is now
39 considering the same. They both have site specific flexibility and off-site
40 mitigation options. Skagit and Thurston are going to be looking at their buffers
41 this year and Mason County is looking at adopting 75 foot buffers. Mason
42 County tells citizens how to apply for reduced taxation. It's written in the code
43 with buffer provisions. Pierce County has a specific salmon provision and
44 requires a minimum 100 foot buffer.
45

1 **Matt Ryan:** I live in Illahee and I have a 150 foot lot. What the Hearings Board
2 has proposed is not realistic, especially in the urban areas. I feel a lot of our
3 problems are non-point pollution; that come from places beyond the shore.
4 Moving people away from the shore does not do away with non-point pollution.

5
6 **01:38:55**

7
8 **Jim Sommerhauser:** I do not have small wetlands nor do I own shorelines. I
9 don't know if a 150 foot buffer is the right size, especially if I look at it for specific
10 species. I'm unaware that we're able in Puget Sound to segregate a species.
11 They all live together. I don't know if you will be able to get away with 35 feet or
12 Class 3 or 4 wetlands. Just because the GMHB is unelected, it doesn't mean
13 they don't know anything. They have staff to do research to provide them
14 opinions. When looking at the CAO, the Commissioners told the public and the
15 Planning Commission that we need to do an inventory of our marine lands. And
16 we need to update under the other law how we deal with them. Staff has done
17 their best at compiling 1300 documents in the database of best available science.
18 They picked something in the middle as a standard so we'd have something to
19 go forward with. I'd rather have a bigger buffer than a smaller buffer with
20 somebody further degrading Puget Sound or Long Lake. You have a
21 responsibility to the public to not recommend something that is going to cost a lot
22 of money. If there is a plan to go forward and do it better as we go forward, the
23 last thing I want you to do is spend millions of tax dollars just to litigate.

24
25 **Ron Ross:** I live in Poulsbo. I read in the text of the proposed regulations,
26 danger trees section, that danger trees can be removed under certain conditions
27 and that permission is required from the Department of Fish and Wildlife. I don't
28 know if Kitsap County has the authority to require them to come from Olympia to
29 look at a tree to see if it should come down. There is no need to have that in
30 the regulation. I would encourage you to take it out. A person should not be
31 required to have somebody from Fish and Wildlife deal with a danger tree. It
32 seems impractical to put a 300 foot buffer on built-out communities. To put
33 existing businesses and parks in non-conforming use is nonsense. 19 County
34 parks and five State parks would become non-conforming use. If this should
35 pass, we might as well forget about the Seabeck Marina.

36
37 **Ken Jensen:** We own a little property on Scandia Creek which is not a salmon
38 bearing stream. No matter the setbacks, as far as marine life, I hope you have
39 some kind of suggestion or procedure to change the cleaning soaps that go into
40 Puget Sound. Those detergents last as long as 40 years. That's the source of
41 our fish and salmon pollution. In the Midwest area, they received suggestions
42 from the government on which soaps to buy outside of grocery stores. Grocery
43 stores are dynamite to fish and wildlife. A year ago, our septic system failed.
44 That house is still vacant because we had to close up. We were told that if we
45 cozied up to Jody, maybe we could get a variance and have the system restored
46 rather than replaced. I am a firm believer in property rights.

1
2 **Brian Petro:** I am the President of Kitsap Association of Realtors. Nobody
3 wants the environment hurt. In the 60's there were auto wreckers and mills on
4 the waterfront and sewage being drained into the Sound, but there were more
5 salmon in the 60's than there are now. There is something wrong with 150 foot
6 setbacks. A law cannot be made that says there is a blanket answer to the
7 problem. An example in the GMA states that if there are sewers in place, you
8 have to cut down your lot to the smallest size available. I encourage you not to
9 make a blanket rule for all problems. Each property has to be looked at
10 individually and there has to be a written mitigation process to keep the
11 environment clean. Washington State has more land set aside than any other
12 state in the country. If your permit is in place you will be free from this regulation.
13 That does not happen in this county in practice. I sold a commercial property on
14 Bucklin Hill Road. The permit was in 1997. Before building, the owner was told
15 he needed sprinklers. The same is true for an owner in Kingston. By law that is
16 true, but in practice that is not the case.

17
18 **01:56:03**

19
20 **Bolger:** Additional deliberations are scheduled for January 23rd and time is set
21 aside for the 24th and 25th if needed. Monday, February 5th is the hearing date
22 for the Board of County Commissioners. In the past, hearings have been
23 rescheduled due to public interest.

24
25 **Chair Taylor:** Written comments can be submitted to DCD until 4:00 pm on
26 January 19th.

27
28 **Bolger:** Testimony received after that time can be submitted for the Board of
29 County Commissioner's consideration as well.

30
31 **A motion was made by Commissioner Jenniges and seconded by**
32 **Commissioner Gustavson to adjourn the meeting.**

33 **The VOTE: Unanimous**

34 **Yes:**

35 **No:**

36 **Motion carries**

37
38 **02:00:00**

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40 **Meeting adjourned: 10:15 PM**

41
42
43 **EXHIBITS**

44 A. Miscellaneous letters of testimony.

Kitsap County Planning Commission – January 9, 2007

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MINUTES approved this _____ day of _____ 2007.

Christina Lindner, Planning Commission Secretary