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**MINUTES**  
**KITSAP COUNTY PLANNING COMMISSION**  
**Administration Building - Commissioner's Chambers**  
**Public Hearing/Deliberations**  
**May 22, 2007, 9:00 AM**

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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 Administration Building – Commissioner's Chambers located at 619 Division Street, Port Orchard, WA 98366. Members present: Dean Jenniges, Jim Sommerhauser, Lou Foritano, Tom Nevins, Michael Gustavson, Linda Paralez, Fred Depee, and Chair John Taylor. Staff present: Jim Bolger, Katrina Knutson, Scott Diener, Larry Keeton, and Planning Commission Secretary Christina Lindner.

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9:04 AM

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A. Call Meeting to Order, Introductions

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9:05 AM

B. Approval of Meeting Minutes

A motion was made by Commissioner Jenniges and seconded by Commissioner Sommerhauser to approve the minutes of April 24, 2007.

The VOTE:

Unanimous

Motion carries

*Gustavson requests a copy of the technical guidance portion of the Shoreline Assessment.*

*Chair Taylor welcomes Jim Sommerhauser to the Planning Commission.*

9:07 AM

C. Public Hearing: Revised Policies and/or Regulations for the use of Alternative Wastewater Treatment Technologies –Jim Bolger, Assistant Director, DCD

1  
2 **Jim Bolger:** *Presents the draft ordinance to the Planning Commission for*  
3 *recommendation to the Board of County Commissioners. He gives an overview*  
4 *of the process, talks about the elements of the proposed ordinance, some*  
5 *specifics involved and offers clarity to the draft ordinance as it has previously*  
6 *been presented to the Planning Commission.*

7  
8 **Jenniges:** I understand the frustration of the stakeholder group. Is the  
9 purpose of sewer technology to let houses be built on non-permeable soil?

10  
11 **Bolger:** This ordinance does not speak to technology types. Those technologies  
12 can still be utilized

13  
14 **Jenniges:** The designation of zoning lot sizes and property densities are  
15 being complicated by the addition of sewer technologies. The historically  
16 platted lots and the change from rural to urban are the real issues. I do not  
17 believe sewer technologies are the issue. What matters is whether or not  
18 the County is going to allow the historically platted lots to be utilized.

19  
20 **00:35:00**

21  
22 **Foritano:** I understand the focus of this ordinance to be the small, vested  
23 lots. My question is regarding rural wooded lots and an assisted living  
24 complex of 100 homes on 20 acres. Contrary to my colleague, the issue of  
25 wastewater treatment technology would be principle. If the proponents of  
26 this needed to develop, would this ordinance preclude the use of  
27 wastewater technology?

28  
29 **Bolger:** If the correct zoning were obtained to allow the development of the  
30 assisted living center, or if it were deemed an essential public facility, it would be  
31 able to utilize this technology. I am familiar with the project you are referring to,  
32 but that use is not allowed in the area it is being proposed. They cannot create a  
33 nonconforming lot out of the 20 acre piece, unless they went through all the  
34 steps.

35  
36 **Foritano:** If they went through the steps, is there any thing in this  
37 ordinance that would preclude the use of the wastewater technology?

38  
39 **Bolger:** If they were included in a LAMIRD, it would not preclude them from  
40 using a large on-site septic system. If they were in a rural area, it would depend  
41 on how they got there.

42  
43 **Ne vins:** I assume that soil types and environmental review will be looked  
44 at on a project by project basis.

45 **00:37:58**  
46

1 **Bolger:** The technical performance of the system, which would include a  
2 consideration of the soils, would be part of the Health District or State  
3 Department of Health’s approval, depending on the size.

4  
5 **Gustavson:** Are some high density ancient plats located inside existing  
6 LAMIRDS?  
7

8 **Bolger.** Yes. Some are inside the Manchester and Illahee LAMIRDS.  
9

10 **Gustavson:** Could some be eligible for a sewer?  
11

12 **Bolger:** That is part of the struggle the cities are dealing with. They might be in  
13 a low urban density but some of the densities of the historic platted areas  
14 represent high urban densities, depending on the jurisdiction, so then they are in  
15 the middle of the lower density zone within a city or urban growth area.  
16

17 **Depee:** *States the real issue is lot aggregation and asks why the lowest*  
18 *number was chosen of the Stakeholder’s proposed levels.*  
19

20 **Bolger:** In the potential appeal of this ordinance, it would be a more defensible  
21 position. Our rural element said it should not be urban in nature. Our rural  
22 maximum density is one dwelling unit per five acres and four units an acre for  
23 urban. There is a space in between and our policy is saying “not urban”.  
24

25 **Depee:** Has anything been received, in writing, from the Health  
26 Department?  
27

00:41:25

28  
29 **Bolger:** They have not submitted in anything that I am aware of. As part of the  
30 stakeholder discussions, they stated their policy. If it is a legal lot, and the County  
31 considers it a legal lot, they try to accommodate the lot owners with a wastewater  
32 treatment system.  
33

34 **Depee:** How can they build half acre lot minimums?  
35

36 **Bolger:** The State is requiring local jurisdictions to revise their on-site  
37 regulations. We expect new standards later this summer.  
38

39 **Paralez:** The County, regardless of zoning, has never kept anybody from  
40 developing on a legal lot. The only issue has been the ability to install a  
41 usable septic system. Now that the technology is available to allow a  
42 septic system, it is the only reason septic is even mentioned.  
43

44 **Bolger:** Anybody is able to apply for community septic systems or on-site septic  
45 systems. The cumulative area of the drain fields can be reserved for something  
46 else. The concern is that as you get newer technologies you may be able to

1 shrink the areas of those drain fields. We do not have one of these approved  
2 systems in place in the County. It is still under review with the State Department  
3 of Health.

4  
5 **00:44:25**

6 ***Discussions held regarding the current version of the problem statement.***  
7

8 **Bolger:** The Board has scheduled an initial public hearing on June 11, 2007 and  
9 they have decided to continue this issue on June 18 for additional deliberations.

10  
11 **Public Hearing Open**  
12

13 **Jerry Harless:** The County has tried to combine two problems which has  
14 resulted in a mess. One issue is the emerging sewer technology and the other is  
15 the increasing lot density. What is being proposed to you is an ordinance to use  
16 sewer technologies as a way to reduce densities. An advertisement for these  
17 systems shows that they increase lot densities. 35,000 gallons a day serving 300  
18 people indicates an urban size sewer system. They are prohibited from rural  
19 areas with 2 exceptions: LAMIRDS and *existing* areas with a hazard to health or  
20 the environment. There is no hazard where there is no house. Both restrictions  
21 are found in the GMA and both conditions are required to exist. Policies LU-18  
22 and RU-12 in the County's Comprehensive Plan prohibit urban services in the  
23 rural area.

24 Density is the other issue. What are acceptable rural densities? Two units per  
25 acre have never passed the threshold.

26 The County has two tools to deal with non-conforming lots: lot aggregation and  
27 Transfer of Development Rights. A balance of those two tools is the answer. The  
28 sewer ordinance is not going to help.

29 The other problem is, by violating the Growth Management Act, the County  
30 jeopardizes its revenue source from the State. The County is already sitting  
31 under an order of invalidity because of an inadequate capital facilities plan.

32 These systems need to be prohibited in rural areas. And then the County should  
33 address the lot aggregation issue.

34  
35 **Depee:** How do you feel about the documents stating these systems are  
36 beneficial to lakes and streams?  
37

38 **Jerry Harless:** When an urban service is brought into the rural areas, it is a  
39 waste of resources.

40 **00:59:20**  
41

42 **Tom Donnelly:** The proposed ordinance is a non-responsive to the recitals.  
43 That is not to say it is a waste of your time to consider the problem. The  
44 problem defined in the recitals can be addressed by disinvestment and  
45 aggregation of the lots. Those issues were not on the table for the stakeholders.  
46 There are only two sewage disposal systems to which it applies. What happens

1 when the systems fail? The Health Department steps in and directs the remedy.  
2 The number of homes involved becomes the major factor in the cure. Too many  
3 homes will bring in sewer, which is a “no-no” in the rural area. There is some  
4 purpose to this ordinance.

5  
6 **Theresa Osinski:** In the first process, many knowledgeable people decided  
7 there was no problem. When the moratorium expired, they asked for an  
8 additional stakeholder process. Again, it was decided there was no problem. The  
9 first three meetings were spent trying to define the problem. This does not make  
10 the process unimportant but it may mean that the end result is a forced product.  
11 There are codes in place to protect properties. We believe the codes have  
12 already solved the problem.

13  
14 **Ball Palmer:** These stakeholder groups came to the conclusion that there is no  
15 problem. The Board wanted something to go forward with. The issue they are  
16 trying to resolve, septic technology, does not address the real issues, which are  
17 lots platted prior to 1937. To add to Jerry Harless’s presentation, I encourage  
18 you to look at state law and the difference between septic and sewer systems.  
19 The County does not have a problem. The issues can be resolved in other ways.  
20 I am not in favor of lot aggregation either.

21 **01:12:50**

22  
23 **Gustavson:** How many legacy lots are in the County?  
24

25 **Bolger:** There are about 1,000 legacy lots in the Manchester area. GIS does  
26 not have all lot lines but I can get those maps. There are approximately 5,000  
27 lots total for the County.  
28

29 **Gustavson:** How many of these lots are outside the existing LAMIRD?  
30 In the 10-Year Comprehensive Plan, we found that we were undersized  
31 for the population allowed for Kitsap County.  
32

33 **Bill Palmer:** That is a study that needs to be undertaken.  
34

35 **Leslie Hassid:** I disagree strongly with many things that have been said. The  
36 Beaver Creek Conservation Group was told they would be invited to the  
37 stakeholders group and we were overlooked. The second stakeholders group  
38 was reformed because we were not invited to the first. The non-conforming lots  
39 have been here for decades. County Resolution-090 prevents the extension of  
40 sewer to rural areas. Is the County taking private property by enforcing  
41 Resolution-090? Why weren’t these lots developed prior to these community  
42 sewer systems? These systems should be considered public because they fail.  
43 They can serve 78 homes. The Health Department has had to handle the  
44 approval of it. If it fails, it is owned privately. With a system that large, it could be  
45 a potential threat to public health. The object is to not allow urban level services  
46 in rural areas. The courts have said that water can be a rural service, but

1 providing public water cannot be used to support urban level growth. If these  
2 LOSS systems have the capacity to treat and manage sewage at a higher level  
3 than septic systems for large levels of development, they are an urban level  
4 service. If there is a public health problem, if the sewer systems fail, the County  
5 is reserving the right to use these LOSS systems to manage public health  
6 problems. They are large enough to be used in place of a sewer system.

7 **01:27:08**

8  
9 **Vivian Henderson:** Jim Bolger conveyed the feeling that people do not want  
10 things to change in their area. I do not believe he was absolutely correct in that.  
11 I understand the concern over high density, but others should be allowed to live  
12 here too. Many people do not like to buy homes on tiny lots, but because of the  
13 GMA, they do not have a choice. I have not received a definition of rural  
14 character from County staff. The County uses subjective terms that do not mean  
15 anything except to make it more difficult and more expensive for people to live  
16 here. KAPO represents all property owners, even when emerging technology  
17 presents itself. Technology is there to help mankind. Developing the land would  
18 help carry the load.

19  
20 **Jim Avery:** I am surprised at the number of lots affected by this issue. 1,000 or  
21 1,200 is just not the case. The Manchester area is topographically challenged. If  
22 we are going to look at this, we need an idea of how many lots are really affected  
23 by it. Some lots cannot be developed. You will find that there really is not a  
24 problem.

25  
26 **Norm Olson:** This ordinance is a waste of time, seeing as how the issue of  
27 legacy lots will be discussed later this summer. Given the condition of the land, I  
28 do not think anybody is going to duplicate Woods View. I strongly disagree with  
29 lot aggregation. We are trying to mask the problem with sewer. Gross density is  
30 difficult to calculate and trying to control density with sewer is even more  
31 problematic. This ordinance will not accomplish what everybody realizes is the  
32 problem.

33 **01:38:08**

34  
35 **BREAK**

36 **01:49:15**

37  
38 **Leslie Hassid:** I e-mailed Jim Bolger about the ordinance exceptions. Jim  
39 stated if the developer was able to get a separate ordinance passed, a LOSS  
40 system could be allowed for a particular development. The language in this  
41 ordinance is vague. Resolution-090 does not have a provision for a developer to  
42 create their own resolution and be exempt from 090. Jim also said it would be  
43 possible for an industrial LOSS to be approved in a rural area. The ordinance is  
44 silent about maintenance. I strongly urge you to find those codes that are  
45 'assumed' to manage operation and maintenance.

46

1 **Jerry Harless:** There is confusion over terminology, specifically the terms public  
2 and private, septic and sewer, and Health Department regulations and Land Use  
3 regulations. This ordinance is a development regulation under the GMA. A  
4 development regulation needs to be approved, addressing LOSS. I am not in  
5 favor of the way it is now.

6  
7 **Sommerhauser:** If I have one house on five acres and I want a more  
8 efficient system, by your interpretation, I still could not use a LOSS system  
9 instead of a traditional septic system?

10  
11 **Jerry Harless:** If it is only serving one house, it is basically a septic system.

12  
13 **Sommerhauser:** If the proposed ordinance stated that I was meeting  
14 current zoning for number of units per acre, then could I use a LOSS  
15 system?

16  
17 **Jerry Harless:** If single system serves multiple dwellings, then I do not believe  
18 you could.

19  
20 ***Discussions held regarding the deadline for written testimony: Board of***  
21 ***County Commissioners accepting until June 10, 2007.***

22  
23 **Public Hearing closed**

24 **2:00:25**

25  
26 **11:06AM**

27 **D. Deliberations: Revised Policies and/or Regulations for the use of**  
28 **Alternative Wastewater Treatment Technologies –Jim Bolger,**  
29 **Assistant Director, DCD**

30  
31 **Paralez:** To what extent has staff researched Transfer of Development  
32 Rights, lot aggregation, or other mechanism to deal with these non-  
33 conforming lots?

34  
35 **Bolger:** The purpose of the first working group was to develop a suite of options.  
36 That group did not come up with a recommendation. There would still be some  
37 economic realization of those lots; buy 3 and sell the rights of 2. Transfer of  
38 Development Rights is a relatively new program.

39  
40 **Paralez:** Does the Transfer of Development Rights program apply?

41  
42 **Bolger:** If you aggregated these lots you could sell the development rights to the  
43 lots you will not develop. Those lots would be used for rezones and urban  
44 growth areas.

45



1 **Bolger:** They are not the same technology, but I understand some mobile home  
2 parks have utilized the community sewage system. The membrane bioreactors  
3 systems are not approved by our local Health District, but they are approved by  
4 the EPA and the state. Suquamish and Karcher Creek both have the systems.  
5 Smaller package plans have not been approved.

6  
7 **Gustavson:** When we come back to the legacy lot issue, can you provide  
8 us with maps so we can see what we are dealing with?  
9

10 **Bolger:** A work plan could include a quantification of the lots. These lots are  
11 generally limited to the Manchester, Indianola and Suquamish areas.  
12

13 ***Discussions held regarding the platting of vested lots.***

14 **02:18:05**  
15  
16

17 **A motion was made by Commission Depee and seconded by**  
18 **Commissioner Gustavson to recommend to the Board of County**  
19 **Commissioners that the ordinance does not move forward and that it be**  
20 **reconsidered at a later time when the legacy lot issue comes before them.**

21 **The VOTE:**  
22 **Unanimous**  
23 **Motion carries**  
24  
25

26 **Jenniges:** I believe this is a land use issue and we need to look an  
27 ordinance that will consider boundary line adjustments.  
28

29 **Sommerhauser:** If we take action, can somebody applying in the current  
30 development under consideration use this system with Health District  
31 approval?  
32

33 **Bolger.** The project is considered to be a vested project. If they get approval  
34 from the State Department of Health, that project can go forward. It does not  
35 affect the Director's decision to require approved systems for any future  
36 applications.  
37

38 ***Commissioner Depee commended Jim Bolger on his work and***  
39 ***Commissioner Nevins thanked Katrina Knutson for her clarity on meeting***  
40 ***summaries.***

41 **02:22:21**  
42

43 **Jenniges:** Now that we have decided, will there be another Moratorium?  
44

1 **Bolger:** We are scheduled for a work study session with the Board tomorrow.  
2 They may choose to follow your recommendation, but they will make the call. I  
3 will emphasize that it was a unanimous movement.

4  
5 **Jenniges:** I recommend they change boundary line adjustments as well.  
6

7  
8 **A motion was made by Commissioner Foritano and Commissioner**  
9 **Gustavson to adjourn the meeting.**

10 **The VOTE:**

11 **Unanimous**

12 **Motion carries**

13  
14 **Meeting adjourned 11:30AM**  
15

16  
17 **EXHIBITS**

- 18 A. Draft Ordinance Creating Development Regulations for the Application of  
19 Community and Large on-site Sewage Disposal Systems in the Rural  
20 Areas of Kitsap County.  
21 B. Revised Draft Ordinance Creating Development Regulations for the  
22 Application of Community and Large on-site Sewage Disposal Systems in  
23 the Rural Areas of Kitsap County.  
24 C. Suquamish Tribe Testimony  
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31 **MINUTES approved this \_\_\_\_\_ day of \_\_\_\_\_ 2007.**  
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35 \_\_\_\_\_  
36 **John Taylor, Chair**  
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38 \_\_\_\_\_  
39 **Christina Lindner, Planning Commission Secretary**  
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