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**MINUTES**  
**KITSAP COUNTY PLANNING COMMISSION**  
**Administration Building - Commissioner's Chambers**  
**November 13, 2007, 9:00 am**

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.

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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 **Chair John Taylor, Lary Coppola, Linda Paralez, Michael Gustavson, Tom**  
14 **Nevins, Lou Foritano, Jim Sommerhauser and Dean Jenniges. Staff**  
15 **present: Eric Baker, Scott Diener, Larry Keeton, Katrina Knutson, Angie**  
16 **Silva and Planning Commission Secretary Amanda Walston**

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**9:04:15**

20 **A. Call Meeting to Order, Introductions**

23 **B. Approval of Meeting Minutes of October 23, 2007.**

25 **A motion is made by Commissioner Coppola and seconded by**  
26 **Commissioner Jenniges to approve the minutes of October 23, 2007**

28 **The VOTE:**

29 **For: 6**

30 **Against:**

31 **Abstain: 2**

32  
33 **The motion carries**

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**9:06:03**

37 **C. Director Update – Larry Keeton, Director, DCD**

39 **Keeton:** Congratulations to Commissioner Coppola on being elected mayor of  
40 Port Orchard, we look forward to working with and improving the County's  
41 relationship with the City of Port Orchard.

1 **Keeton:** *The appeal to the Director's interpretation regarding the 35 feet and two*  
2 *stories issue in Manchester was denied by the Board of County Commissioners*  
3 *on Monday night, which means that 3 stories will not be allowed in Manchester.*  
4 *Another appeal to a specific project has not been decided yet.*

5  
6 *The Kingston order was received from the Growth Management Hearings Board*  
7 *and we are now in compliance for sewers in the Kingston Urban Growth Areas.*  
8 *Commissioner Sommerhauser requested copies of all the hearing orders related*  
9 *to the moratorium and sewers; these are also available to the other*  
10 *Commissioners. Last Friday we went to a meeting with other urban counties to*  
11 *discuss and compare process improvement strategies. We are still working*  
12 *through the fees for the budget. The Board of County Commissioners has been*  
13 *briefed on our budget and the fee policy.*

14  
15 **9:08:41**

16  
17 **Sommerhauser:** *Regarding the moratorium and remand from the Board*  
18 *of County Commissioners, we had five Urban Growth Areas in which*  
19 *expansion was negated, but only for the Capital Facilities Plan and sewer.*  
20 *When the county asked for interpretation, the Board also negated the*  
21 *zoning change from the update as well. Is this applicable only to those*  
22 *five Urban Growth Areas?*

23  
24 **Keeton:** *Yes. The first order that came back from the Board of County*  
25 *Commissioners negated parts of the Comprehensive Plan related to the Capital*  
26 *Facilities Plan. Appellants asked for clarification and the Board narrowed the*  
27 *negation to the sewer system in the five impacted expansion areas and the*  
28 *Board also specified that development should be halted and zoning code for*  
29 *those areas should revert back to rural. The County does not have a savings*  
30 *clause in its Comprehensive Plan, so literally for the time being; those five*  
31 *expansion areas had no zoning.*

32  
33 *The moratorium meeting on Monday night completes the zoning for residential*  
34 *housing and allows for setbacks. Single Family Residences can be constructed*  
35 *in the Urban Growth Expansion Areas, but without a zoning ordinance we would*  
36 *not have been able to create setbacks. Commercial improvements to existing*  
37 *buildings would also have been allowed.*

38  
39 **9:11:23**

40  
41 **Sommerhauser:** *So requests for sewer connection within 200, 300, 500 ft*  
42 *of the sewer line will be denied if they don't meet the rural zoning?*

43  
44 **Keeton:** *At this point, the moratorium does not allow connections to sewer within*  
45 *250 or 500 feet. The Growth Management Hearings Board did not receive a*  
46 *positive reaction and the County is putting together a plan for expansion.*



1 **Keeton:** I would hesitate to say we are passing laws here, but if you want to wait  
2 to do anything or allow anything to go forward until all the challenges and  
3 appeals and objections are over with, I 'm not sure if that's the way we want to  
4 run government.

5  
6 **9:17:52**  
7

8 **Jenniges:** I think you have to run parallel courses any time you do  
9 something, you just can't

10  
11 **Keeton:** *You have to assume the board is correct, and that's what we do. They*  
12 *are the governing body, they are the elected body. It exists in other forms too,*  
13 *such as the Legislature. You have to take things into consideration and assume*  
14 *that the decision is correct.*

15  
16 **9:18:53**  
17

18 **Gustavson:** *I can't recall a piece of work in the past six years that staff*  
19 *passed onto the Growth Management Board that has not been*  
20 *successfully appealed in some aspect. It bothers me that we are not*  
21 *tuned in to what the Board is typically doing and saying and perhaps we*  
22 *need to do our homework some more. It is expensive to us as citizens.*

23  
24 **Keeton:** *I would have to agree with you on the expense. In my own opinion,*  
25 *Staff did not get the sufficient time they needed to complete the County Plan*  
26 *when the Growth Management Hearings Board said we had a deadline of this*  
27 *year to get it complete, when the Supreme Court had given until 2008 to*  
28 *complete everything. That is two years shaved off their timeline. Our Staff does*  
29 *the best it can with what it has and the deadlines set by other bodies.*

30  
31 *Our deadlines are being set by people or bodies that don't necessarily have to*  
32 *abide by the decision or the results of the work it requests, i.e. the Growth*  
33 *Management Hearings Board. Is the problem Staff error or do the complexities*  
34 *involved in these Comprehensive Plans require more time than we are given?*

35  
36 *We need to try and figure out how to start scheduling work two years out so we*  
37 *don't have to cram in the hearings and meetings into these schedules in*  
38 *November and December every year to try and get everything through.*

39  
40 **9:21:25**  
41

42 **Gustavson:** *We're going to hit pretty hard this morning on a direct*  
43 *violation of the State's Innocent Purchaser Law of 1969 that is in the*  
44 *Manchester Plan and is a direct violation of State law.*



1 **Keeton:** *An infrastructure group is looking at sewers for the expanded Urban*  
2 *Growth Areas. There are a lot of things happening and groups trying to get*  
3 *required information to you. Whether we can get the sewer districts to come in*  
4 *here, is a whole different issue.*

5  
6 **Jenniges:** *We pushed two years ago to get the sewer districts together to*  
7 *provide a comprehensive plan for the County and the Planning*  
8 *Commission, as we have always been concerned about the sewer plans.*  
9 *But the only participation we had were three autonomous organizations*  
10 *that refused to work with each other and were only willing to provide*  
11 *information on their own jurisdictions.*

12  
13 **Taylor:** *That's part of the problem we need to work through.*

14  
15 **9:26:28**

16  
17 **Baker:** *(Currently in charge of putting together the required Capital Facilities*  
18 *report.) There are only four sewer purveyors in all of Kitsap County. The work*  
19 *these companies did was mainly capacity based, but your questions are about*  
20 *conveyance, or how to get the sewer from the various Urban Growth Areas, and*  
21 *most of that will likely not be available as final or confirmed data until January or*  
22 *February.*

23  
24 *Additionally the sewer district and even the two cities we are working with directly*  
25 *are not directly held by this order. They have their own timelines that may or*  
26 *may not mesh with the County's. The City of Port Orchard and Karcher Creek*  
27 *plan to have this information by February and we are in discussion with the City*  
28 *of Bremerton as well. We are working to get this completed by February for*  
29 *members of Planning Commission as well as the Public and private enterprise.*  
30 *We must provide the Capital Facilities at the time that the growth requires it as*  
31 *well as the general idea that growth pays for growth.*

32  
33 **9:29:34**

34  
35 **Taylor:** *So the mandates come from the State involving the Growth*  
36 *Management Act regarding sewers, now comes down to the county, but*  
37 *the people who actually provide the service are not accountable to the*  
38 *county?*

39  
40 **Baker:** *They are not directly accountable to the Growth Management Hearings*  
41 *Board in the action which expands the Urban Growth Areas. The County is one*  
42 *of the four sewer providers, so there is a large portion of the Urban Growth Areas*  
43 *Central Kitsap, Silverdale, etc. where we are providing the information, but as the*  
44 *County starts to phase out its participation in Urban Service Provision, there will*  
45 *be a question of what the cities will take on, and how to coordinate with them.*  
46 *Right now that is a connection that no jurisdiction has its arms around.*

1 **9:30:47**

2  
3 **Taylor:** So there is a connectivity problem?

4  
5 **Baker:** *Connectivity, politics and we are working on the edge of Growth*  
6 *Management Law right now. A lot of jurisdictions are looking very closely at us*  
7 *right now. These rulings that Capital Facilities need to be provided with a more*  
8 *up-front planning component by the local jurisdiction are starting to come in.*

9  
10 **9:31:30**

11  
12 **Coppola:** *As Commissioner Nevins pointed out, the County prevails about*  
13 *70% of the time in appeals, which is costly for the citizens of Kitsap*  
14 *County. Has the County ever looked at recovering some of the cost from*  
15 *the remaining 30% of appellants?*

16  
17 **9:32:15**

18  
19 **Keeton:** *No. We have been looking into what Growth Management Act has cost*  
20 *the county as a whole? I don't think you would be able to get the cost recovery,*  
21 *first of all I don't know how you would do it. When looking at fees and the court's*  
22 *decision, it says we cannot capture cost through the fee process or litigation. For*  
23 *legal advice or legal services involved in a permit, if it's an open permit, you can*  
24 *recover some of those costs. Otherwise, it is considered general government*  
25 *responsibility.*

26  
27 **Sommerhauser:** *The Growth Management Hearings Board does not*  
28 *have the same authority as a court to award attorney's fees or to rule on*  
29 *frivolous lawsuits. Its authority is solely to rule on the decisions in the*  
30 *Growth Management Act.*

31  
32 **Coppola:** *I understand that, but we see frivolous appeals all the time, if for*  
33 *no other reason, to create delays. I wonder if Counties shouldn't be*  
34 *proactive in trying to head that off to create some financial liability for*  
35 *causing this delay.*

36  
37 **9:34:04**

38  
39 **Keeton:** State Legislature considered a fee for the appellant and it didn't get off  
40 the floor.

41  
42 **Taylor expresses appreciation for the report. Keeton confirms that going**  
43 **forward the updates will be standard on the first Tuesday of each month,**  
44 **not every meeting.**

1 **9:35:00**

2  
3 **D. Deliberations: Site Specific Comprehensive Plan Amendment**  
4 **(Lindstrom): Scott Diener, Manager, DCD**

5  
6 **Diener:** *(Mr. Lindstrom moves closer to the podium, as there are technical*  
7 *difficulties with the hearing assistance equipment.) This is last of five site*  
8 *specifics before the Planning Commission, which was rebutted by the applicant*  
9 *and continued to this meeting.*

10  
11 *(Presents maps.) This first map is an area map showing the property is near the*  
12 *Seabeck and NW Newberry Hill rights of ways. Second is a building limitation*  
13 *maps with two forty-acre parcels with the southern parcel being touched only by*  
14 *moderate hazard slopes. The third map is the critical aquifer recharge areas also*  
15 *showing the two parcels. Finally the subject properties, please note the third*  
16 *property marked by double hatched lines is not site specific.*

17  
18 *After reviewing the applicant's rebuttal, neither staff nor legal were compelled to*  
19 *change staff's initial recommendation for denial. Currently property is designated*  
20 *rural protection with one dwelling unit per ten acres. The request was to go to*  
21 *rural residential or one dwelling unit per five acres. I can answer any additional*  
22 *questions at this point.*

23  
24 **9:38:23**

25  
26 **Foritano:** Are the four reasons for denial the same?

27  
28 **Diener:** Yes.

29  
30 **Jenniges:** *I'm speaking against the denial primarily due to the fact that if*  
31 *you go down those four measures, and controlling rural development is*  
32 *the County's big push right now, the County is only allowing him to have 5*  
33 *acres. No matter how you look at it, five acres is considered rural, even*  
34 *20 years ago, that area was 2.5 acre lots and considered rural. Second, I*  
35 *believe it complies because you have five acre lots. Third, concerning*  
36 *sprawl, I don't think five acres counts as sprawl. Regarding Natural*  
37 *Resources, five acres and 6,000 feet of soil won't diminish aquifers.*

38  
39 *I think the county is out of bounds on this when you look at all the*  
40 *surrounding developments that are two, three and five acres. I think it is a*  
41 *controlling issue, it is unfair to the property owner and five acres is rural.*

42  
43 **9:39:49**

44  
45 **A motion is made by Commissioner Jenniges and seconded by**  
46 **Commissioner Coppola to approve the Lindstrom Application.**

1 **(Clarifying questions are allowed from applicant or his counsel at this**  
2 **point, but no additional testimony)**

3  
4 **9:41:52**

5  
6 **Gustavson:** What was the zoning?

7  
8 **Diener:** Rural protection

9  
10 **Gustavson:** Which is intended for future city development or future urban  
11 use, right?

12  
13 **Diener:** No. Rural protection is meant primarily to protect the lands upon which  
14 the designation sits as well as the outlying lands around that property.

15  
16 **Gustavson:** Keeping it rural forever.

17  
18 **Diener:** *I can't speak in perpetuity, but I think ideally what you have with that*  
19 *designation, is that it protects the lands upon which it is laying upon or adjacent*  
20 *land. This means you don't have to have critical areas in a rural protection zone*  
21 *greater than 50 percent for it to be zoned as rural protection if the surrounding*  
22 *lands also have critical areas.*

23  
24 **9:42:42**

25  
26 **Gustavson:** But it's not covered by critical areas of more than 50 percent?

27  
28 **Diener:** *The subject property is not.*

29  
30 **Taylor:** My notes, say it is 110 acres, less 30 acres for critical areas.

31  
32 **(Confirmation that the subject property is two forty-acre tracts of land, with**  
33 **a separate 30 acres for critical areas)**

34  
35 **9:43:09**

36  
37 **Sommerhauser:** The original application was 110 acres; the application  
38 was modified to remove the 30 acres, so the application before us is 80  
39 acres.

40  
41 **Ne vins:** Recalling Commissioner Jenniges' comments on the surrounding  
42 areas, I'm not sure when these divisions happened, but I assume it was  
43 prior to the Growth Management Act. Obvious mistakes were made in the  
44 past by allowing these smaller lot developments, but this is not a good  
45 reason to continue the pattern. Every lot borders another lot, and a  
46 continuation of that mistake is not something that I can support.

1 **Taylor:** *I hear your comment, which is two wrongs don't make a right.*  
2 *(Calls for any other comment before returning to Commissioner Jenniges*  
3 *to open the secondary round of comment.)*

4  
5 **9:44:43**  
6

7 **Sommerhauser:** *I tried to listen to Mr. Lindstrom's appeal about being*  
8 *able to develop his land. Based on the length of time he has owned the*  
9 *land, it appears that he had the opportunity to develop it before 1995 and*  
10 *the Growth Management Act, and under current zoning he can develop it*  
11 *into 8 ten acre lots.*

12  
13 *Based on what I can see on real estate values, he will make some money*  
14 *on the land, but I cannot get beyond the fact that this will be a zoning*  
15 *island. If there is anything that I have read in Growth Management, it says*  
16 *"do not create zoning islands." I cannot support this motion.*

17  
18 **9:45:59**  
19

20 **Jenniges:** In response to Commissioner Nevins, these are not lots; these  
21 are five-acre tracts. I don't see how anybody can consider this a project or  
22 a group of homes. I base this on the fact that if you go through the five  
23 reasons for staff's denial, I've explained for each and every one of them  
24 why it does comply. If you read the Growth Management Act denials,  
25 even those specify five acres as rural.

26  
27 As far as Commissioner Sommerhauser's response relating to the time he  
28 could have done this, a lot of people buy land and unfortunately pay no  
29 attention in what is going on until after the fact. So because he was not  
30 active in developing this, he may have had other reasons like giving it to  
31 his children, assuming that when they acquired this, they could do this.

32  
33 I really believe that looking at the area around it; I don't consider it to be a  
34 mistake as Commissioner Nevins considers it, I consider it to be a right  
35 making it a right. That is rural out there and I don't care how you cut it,  
36 two and a half acres, five acres, ten acres is rural property. The Newberry  
37 Hill road and development in front of it was allowed. To me this doesn't  
38 make sense. It's not a pragmatic approach, nor is it a private property  
39 owner's approach.

40 **9:48:13**  
41

42 **Taylor:** *We are getting into arguments amongst ourselves, the simplest*  
43 *way to resolve the conflict of opinions is to vote.*  
44  
45  
46

1 **9:48:41**

2  
3 **Diener:** I would be remiss to not point out something based on the discussion  
4 I've heard so far. Historically small parcels being developed in a same area is  
5 not a factor that should be considered when making decisions. If you read with  
6 me from an order issued by the Central Puget Sound Growth Management  
7 Hearings Board in 1995 that says: *"The County cannot base its future planning*  
8 *on new growth based on its past development practices if those practices do not*  
9 *comply with the GMA."* I think that addresses at least some of what I've heard  
10 from the Commission today.

11  
12 **Foritano:** *If a turning point issue is creating a zoning island, the logic of*  
13 *this report on creating a zoning island doesn't make sense to me. Can*  
14 *you clarify staff's conclusion that this would be a zoning island, when it*  
15 *appears that there is similar zoning development around it?*

16  
17 **9:49:45**

18  
19 **Diener:** We are talking about applying a rural residential designation to this; we  
20 would be applying this zoning as the only rural residential zoning in this area.

21  
22 **Foritano:** *(Asks for confirmation that there is in fact no rural residential*  
23 *zoning contiguous to Mr. Lindstrom's request.)*

24  
25 **9:50:50**

26  
27 **Diener:** My earlier statement is correct. *(Confirms there is no rural residential*  
28 *adjacent to the subject property.)*

29  
30 **Taylor:** What is the zoning of the Chaffey Development?

31  
32 **(Clarification made on the location of the Chaffey Development, which is**  
33 **directly south, across the street from the subject property.)**

34  
35 **Diener:** That is rural protection. *(Confirms that the subject property is*  
36 *surrounded by rural protection zoning.)*

37  
38 **Sommerhauser:** You have to drop below Newberry Hill before you get out  
39 of rural protection.

40  
41 **Diener:** That is correct

42 **9:51:32**

43  
44 **Sommerhauser:** Part of the testimony we got was some folks down in the  
45 development south of these properties.

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1 As I remember the discussion, the view was that access to these  
2 properties for development would be off one of the two cul de sac roads  
3 on the southern edge. Can you tell us how much traffic we estimate for  
4 eight houses or sixteen houses?  
5

6 **Diener:** Typical trip generation is 10, so you are looking at 10 trip generations  
7 per day per household unit.  
8

9 **Sommerhauser:** So we're looking at 80 trips per day?  
10

11 **Diener:** That is an average.  
12

13 **9:53:00**  
14

15 **The VOTE:**

16 **For: 5**

17 **Against: 3**

18 **Abstain:**  
19

20 **The motion carries.**  
21

22 **9:54:30**  
23

24 **BREAK**  
25

26 **10:09:32**  
27

28 **RECONVENE**  
29

30  
31 **E. Deliberations and Recommendation: 2007 Manchester Community**  
32 **Plan Update: Katrina N. Knutson, Associate Planner, DCD**  
33

34 **10:09:47**  
35

36 **Knutson:** We are here to deliberate on the Manchester Community Plan and  
37 hopefully to reach a decision today. *A public hearing was held October 23, 2007.*  
38 *Of the 14 citizens testifying, seven were in favor of and seven were against the*  
39 *plan as written. The issues citizens opposed include the 35 foot height limitation*  
40 *within the Manchester Commercial Village Zone, non-conforming lot language,*  
41 *site specifics, and minimum developable lot sizes in the Manchester Village*  
42 *Residential Zone. Documentation citizens requested from staff at the meeting*  
43 *has been provided and citizens are satisfied.*  
44

45 *Public comment period ended October 31, 2007. Of the 19 comments received,*  
46 *14 were in support of the Plan as written and five opposed portions of the Plan.*

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1 *The portions opposed include Public Participation, 35 foot height limitation within*  
2 *the Manchester Commercial Village Zone, and non-conforming lot language.*

3  
4 *Staff conducted a Work Study with the Board of County Commissioners on*  
5 *November 6, 2007. Commissioners seemed supportive of the revised plan.*

6  
7 *Through Keyport, this board has recommended to staff that we bring forward a*  
8 *consistent method of deliberations for Planning Commission recommendation*  
9 *(Refers to the November 1<sup>st</sup> summary with options as listed.)*

- 10  
11 1. Recommend approval of the Manchester Plan based on Staff findings  
12 2. Recommend approval of the Manchester Plan based on Staff findings with  
13 modifications to the following components: *(certain modifications can be*  
14 *made while still approving the majority of the Plan)*  
15 3. Recommend approval of the Manchester Plan based on Staff findings  
16 while recommending that Department of Community Development  
17 continue to work with the Community in 2008 for proposed solutions and  
18 potential 2008 Comp Plan Amendments *(to certain items of your*  
19 *choosing.)*  
20 4. Recommend the Manchester Plan be deferred for consideration until  
21 2008 with additional community involvement by DCD to address *(any*  
22 *items you feel need to be addressed.)*  
23 5. This Board cannot recommend approval of the 2007 Manchester  
24 Community Plan.

25  
26 Staff recommends a motion be made to one of these options.

27  
28 **10:13:34**

29  
30 **Gustavson:** There are a number of items here that are troublesome that  
31 need more thought put into it by the community and by Staff.

32  
33 **A motion is made by Commissioner Gustavson and seconded by**  
34 **Commissioner Coppola to choose option #4 *(Recommend the Manchester***  
35 ***Plan be deferred for consideration until 2008 with additional community***  
36 ***involvement by DCD to address (any items you feel need to be addressed.))***

37  
38 **10:14:00**

39  
40 **Taylor:** If we do not pass a recommendation on Manchester today, it will  
41 go before the Board of County Commissioners on November 27<sup>th</sup> for their  
42 action whether we give our opinion or not.

43  
44 **Gustavson:** That's fine; they can take our recommendation into  
45 consideration and make their own movement.

1 **Knutson:** *Notes that during the Work Study, the Commissioners were not very*  
2 *supportive of not getting the Plan passed this year.*  
3

4 **Nevins:** *The Plan seems to be vetted as well as any that has been before*  
5 *us. Public participation, from what I can determine, is as good as any*  
6 *community could expect. I attended one summer meeting. I noticed*  
7 *plenty of available parking, someone had hung up a drape to display 28*  
8 *feet and 35 feet heights. I saw a Department of Community Development*  
9 *representative available, quite a line of people signing in and others*  
10 *checking addresses; people inside were filling out comment cards and*  
11 *presenting various arguments from both sides.*  
12

13 *I think any community would be happy to have had this much participation.*  
14 *After seeing these activities I was satisfied that public participation was*  
15 *adequate and I left. I believe we should move forward with this, so I will*  
16 *vote against the motion for Option #4.*  
17

18 **10:16:48**  
19

20 **Taylor:** *Apologizes to Commissioner Gustavson as the person making the*  
21 *motion should have been the first to speak to it.*  
22

23 **Gustavson:** *A number of people brought forward some very insightful*  
24 *comments. (Makes reference to Ralph Nelson's submitted comment.)*  
25 *Five years ago, when the issue of building height came up, the community*  
26 *proposed and agreed with a mid-point height of 28 feet.*  
27

28 **Gustavson:** *While well-intended, it brought about unintended*  
29 *consequences for lots running downhill. I think a far better answer is to*  
30 *take the height of the building of the upper street, with a maximum height*  
31 *of 35 feet. In this example from Mr. Nelson, his property has to be*  
32 *considerably lower than the two adjoining properties. They are side by*  
33 *side and the neighbors are 10 feet higher, cutting out a whole portion of*  
34 *his view.*  
35

36 **10:18:57**  
37

38 **Gustavson:** *Another issue is minimum lot size. LAMIRDs (Limited Areas*  
39 *of More Intensive Rural Development) in the Growth Management Act are*  
40 *directed not to increase urban sprawl but to maintain the character of the*  
41 *neighborhood. We have ½ acre and ¼ acre zoning and we have*  
42 *minimum lot sizes of five homes to an acre, but none of that matches our*  
43 *Urban Growth Area standards. Looking ahead, Port Orchard and*  
44 *Manchester may be joined, but we have created urban sprawl in*  
45 *Manchester. We also have sub-standard lots.*

1 **Gustavson:** *Professor Johnson submitted documents (refers to packet*  
2 *handed out with cover letter) showing a set of five examples, in four*  
3 *cases, the existing property owner has built a house on Lot B and then*  
4 *picked up some additional 25 foot lots for future investment, but he won't*  
5 *be able to sell those even though that was not his original intent. At the*  
6 *same time, Lot A is Buildable at 3,200 square feet. If the parcel of one of*  
7 *these others had been sold since 2002 and is less than 8,700 square feet,*  
8 *it would not be buildable.*

9  
10 *There is no consistency in this plan at all. The business of buying a*  
11 *property as an innocent purchaser and then not being allowed to build on*  
12 *it is prohibited by State Law in a 1965 ruling. The issue of aggregating*  
13 *lots was addressed by the State Attorney General and was thrown out as*  
14 *being not at all required. I think the County has stepped way beyond its*  
15 *bound in this language. I think needs to go back to the Community and*  
16 *needs to be re-addressed with the guidance of State Law and other*  
17 *rulings; otherwise it will be appealed and thrown out. I think it is a very*  
18 *poor way to do business*

19  
20 **10:22:59**

21  
22 **Coppola:** *I have mixed emotions. After living in Manchester for 22 years,*  
23 *the whole point was to save the character, but by allowing the 35 foot*  
24 *heights you are changing it forever. As part of original Manchester 42, we*  
25 *said 2 stories was it. It did not relate to 35 feet, it was two stories.*

26  
27 **Coppola:** *Regarding process, I requested and received a copy of the*  
28 *original postcard mailing list from Scott Diener. I was told by Carrilu*  
29 *Thompson that I was mailed two postcards for two properties, but my*  
30 *name only appears on this list once.*

31  
32 *Also, I talked with a number of people whose names are on this list who*  
33 *did not receive any notification, including the Government Affairs*  
34 *Coordinator for the Homeowners Association and some real estate*  
35 *people. I am not convinced the notification process was done correctly.*  
36 *As I stated, I have mixed emotions on this because I hate to see the*  
37 *character changed, which it will with the 35 foot height, but I also don't*  
38 *agree with the process.*

39  
40 **10:25:16**

41  
42 **Taylor:** *Asks for clarification of the maximum height restriction*

43  
44 **Knutson:** *In the View Protection Overlay Zone it will be 28 feet, outside of that*  
45 *the limit will be 35 feet.*

46



1 **10:29:29**

2  
3 **Jenniges:** *I'm one way or another on this, I think they worked hard and*  
4 *attempted to do a good job, but I'm not sure that the attempt is enough to*  
5 *fulfill the purposes. I think there is still a major issue of parking in front of*  
6 *these businesses, as the owners have set aside and intended for. The*  
7 *signage is also very restrictive.*

8  
9 *Regarding process I believe that Commissioner Sommerhauser is correct*  
10 *that you do the best you can, but Commissioner Coppola points out*  
11 *specific people who were not notified. What pushes me to table this report*  
12 *are the technical aspects of this report that are appealable, as brought up*  
13 *by Commissioner Gustavson. If we pass it and the Board of County*  
14 *Commissioners passes it, and there are still specific areas that can legally*  
15 *be appealed, I am very reluctant to move forward with it.*

16  
17 **10:31:16**

18  
19 **Paralez:** I think staff has adequately reassured us that Commissioner  
20 Gustavson's concerns have been reviewed by Staff and Legal. I am not  
21 going to support delaying this any further. I think it has had more than  
22 adequate community involvement and certainly has had the attention of  
23 public process that we have given it. I appreciate your work.

24  
25 **Knutson:** Thank you.

26  
27 **10:32:06**

28  
29 **Gustavson:** We have had the pleasure of watching two Community  
30 Plans being presented to us in the last six weeks. One for Keyport, which  
31 was extremely well-led by a very knowledgeable County Staff Planner,  
32 and the community stood directly behind him. The favor he did for them  
33 was to give them a complete and thorough understanding of the  
34 restrictions and requirements that they had to follow and the things and  
35 the constraints of the problem.

36  
37 In the case of Manchester, a whole different picture comes forward. This  
38 is a community left on their own. And naively, they came forward with a  
39 lot of ideas that they felt impassioned about, but they didn't have the  
40 technical expertise to support them, on my terms, that would have  
41 addressed these issues that are very appealable. In order to avoid the  
42 appeal issue, these things should have been addressed in the Plan, and  
43 they're not. Some of it is staff wording, unfortunately, that came on later  
44 on buildable lots.

1 **Gustavson:** So, I see real issues coming out of this and I think this is sad  
2 that we have to go back and spend a lot more taxpayer money re-  
3 addressing these same issues. In all likelihood, if anybody appeals it we'll  
4 go right back and do the same thing again, and it's expensive for what is  
5 supposed to be a constrained County with its money. I think we are  
6 throwing our money out the window by going ahead with this, naively  
7 believing in maybe somebody just won't appeal it. I can't imagine they  
8 wouldn't.

9

10 **10:33:36**

11

12 **Taylor:** Before I call on Commissioner Coppola, this has happened  
13 numerous times and I'd like to see it stop. We are not here to compare  
14 one staff member with another staff member. That is not our job. The  
15 message that comes across in some of your comments is not our job, is  
16 unacceptable, and I don't like to see it in the record. If you've got a  
17 problem with a staff member, go talk to Larry Keeton.

18

19 **Jenniges:** I was just going to defend the fact that staff has been the brunt  
20 of this.

21

22 **Gustavson:** I wasn't berating any staff member; I'm just saying that in  
23 Keyport, staff was ahead of the game

24

25 **Jenniges:** the same thing's going on with Illahee.

26

27 **Gustavson:** What happened in Manchester, they kind of were left on their  
28 own.

29

30 **10:34:40**

31

32 **Taylor:** Let's not get into a war over what I said. I just, I hope you  
33 understand my point and I'd like to see it stop. This is public record; I  
34 don't want to see it going into the public record.

35

36 **Gustavson:** I think you are misreading my comment, badly.

37

38 **10:35:01**

39

40 **Coppola:** *I agree with Commissioner Gustavson about the cost of an*  
41 *appeal. It seems like we are more concerned about getting it off staff's*  
42 *plate so they can move forward.*

43

44 **Gustavson:** *In a County under financial constraints, I think we should be*  
45 *more conscious. Whether you agree with the Plan or the outcome, it is*  
46 *certain to be appealed.*

1 **Gustavson:** *Can we afford to deal with that or should we send it back, ask*  
2 *them to clean up the process and bring it back again? I think that would*  
3 *be less costly.*

4  
5 **10:36:03**  
6

7 **Foritano:** *I don't think it is our prerogative, we are not attorneys and it is*  
8 *not our job to second-guess Staff or their Legal Staff's background on*  
9 *appealability. I think comparing Keyport and Manchester is like comparing*  
10 *apples and cumquats. Manchester is complex and there will probably be*  
11 *legal appeals from all sides no matter what decision is made. It is Staff's*  
12 *and its legal support's judgment to determine appealability and liability, not*  
13 *ours.*

14  
15 **Sommerhauser:** *The part I can't get past is that a lot of effort went into*  
16 *building the first plan, and it didn't come out the way they wanted it. They*  
17 *put in more effort to try to fix it. That effort is never going to be perfect;*  
18 *what we do is never going to be perfect. Like it or not, we have a litigious*  
19 *society. Let's get on with business.*

20  
21 **10:37:27**  
22

23 **Knutson:** I would just like to clear the air a little bit. Linda Bentley began this  
24 process back in January and it was fore fronted just like Keyport. James  
25 (Weaver) and Linda do have different styles and we went forward with it. I was  
26 Linda's assistant planner at that time, helping her out. When Linda left, I took  
27 over the Plan portion and Philip Fletcher took over the Design Standards portion;  
28 which, the Design Standards portion, does have the majority of the public  
29 participation complaints.

30  
31 The Plan portion is very defensible as far as public participation; we've gone  
32 over it with Legal many, many times and you can see in my staff reports, how  
33 many meetings we had and what we discussed. It has been very vetted in the  
34 community. I would like to say, also, that James Weaver has looked over all of  
35 my work and given it his seal of approval.

36  
37 Many of these issues you have brought forward to Staff, this is not necessarily  
38 our opinion. We've vetted this all through the community process and as we  
39 have told you a ton of times, Manchester is split 50/50 on what they want to see.  
40 And what is before you is the majority community recommendation. It is the  
41 majority of the community's opinion that what is in that document is what they  
42 want. Nobody on staff that has worked on this plan lives in Manchester; we just  
43 want to see this plan go forward so it can help the majority or all of Manchester,  
44 as many people as we can help.

45

1 **Knutson:** A lot of the issues you've brought up as far as the non-conforming lots,  
2 how to determine height, and the minimum developable lot size; the majority of  
3 those were not changed through this process. If you look at the 2002 Plan and  
4 this Plan, they are basically the same, and the reason for that is through our  
5 community meetings, when we took votes, the majority of the people at those  
6 meetings wanted the language to stay the way it is.

7  
8 And as Staff, it is our job to bring forward what the community wants while  
9 making sure that it is legal. There were a couple of items that the community  
10 brought forward that were not legal and Staff went back to the community and  
11 told them so and we tried to work through it. Unfortunately, on the non-  
12 conforming lot language, the community was split 50/50. We could never vote on  
13 it, and that is why we are here in front of you today. We put forward the majority  
14 opinion, but as Planning Commissioners, if you have a separate recommendation  
15 then Staff and the community needs to hear that from you.

16  
17 We put forward what the majority opinion wanted. The non-conforming lots, as  
18 far as if the language is appealable; anything in the plan can be appealed.  
19 Whether or not the appeal will prevail is a different thing, and I do have a legal  
20 memo on the non-conforming lot language from our Legal department and it is  
21 legal.

22  
23 **10:40:39**

24  
25 **Jenniges:** Is it understandable?

26  
27 **Knutson:** *That is another issue, and if you want to, you can always choose*  
28 *another option and ask that Staff specifically work with the community again on*  
29 *this next year, but I have a feeling we will see the same results, and the*  
30 *community won't be able to decide unanimously.*

31  
32 **10:40:59**

33  
34 **Jenniges:** *Two things bother me is the understandability of the lot*  
35 *aggregation language and the other is the height issue, which is very*  
36 *confusing to me, and also the parking. Are you telling us that if we go*  
37 *forward with this Plan we can still work with it?*

38  
39 **Knutson:** *You can modify the Plan yourself using Option #2, or under Option #3*  
40 *you can pass the rest of the Plan and leave the non-conforming lot, or whatever*  
41 *section you want, out and ask Staff to work on it again in 2008. This is a very*  
42 *large document, and there are only three things we are talking about. (Begins to*  
43 *speak about the legality of Lot Aggregation.)*

10:42:20

1  
2  
3 **A point of order is called by Commissioner Sommerhauser that, at this**  
4 **point, discussion is not relevant to the motion, which is to defer the plan to**  
5 **2008.**

6  
7 *(Taylor notes that all Commissioners have had a chance to speak to the*  
8 *motion)*

9  
10 **Commissioner Coppola calls for the question.**

11  
12 **(Chair Taylor reads motion to select Option #4** *(Recommend the Manchester*  
13 *Plan be deferred for consideration until 2008 with additional community*  
14 *involvement by DCD to address (any items you feel need to be addressed).)*

15  
16 **The VOTE:**

17 **For: 3**

18 **Against: 5**

19 **Abstain:**

20  
21 **The motion fails.**

22  
23 10:43:41

24  
25 **A motion is made by Commissioner Sommerhauser and seconded by**  
26 **Commissioner Foritano to approve the Plan subject to individual**  
27 **corrections as specified by this panel.**

28  
29 *(Taylor clarifies that the motion on the floor is Option #2 (Recommend*  
30 *approval of the Manchester Plan based on Staff findings with modifications to the*  
31 *following components: (certain modifications can be made while still approving*  
32 *the majority of the Plan), and notes that discussion should be fairly short.)*

33  
34 10:44:40

35  
36 **Sommerhauser:** *There are two areas we will have to work through. The*  
37 *first is the height restrictions. I think our planner misspoke when she said*  
38 *it doesn't say 35 feet, which it does. The other item will be the lot*  
39 *aggregation. This is what we are here to do.*

40  
41 **Knutson:** *There is a place in the plan where it stipulates 35 feet, and that is any*  
42 *property outside of the View Protection Zone. There are two different heights in*  
43 *the Plan, and that is correct. I have gone over it with the community.*

44  
45 *(Sommerhauser, Knutson continue discussion on whether it is clear where the*  
46 *reference to 35 feet is, and decide to move on.)*

1 **Foritano:** Given the amount of information and effort that has been put  
2 into the cluster development and non-conforming lot language, and since  
3 the Board of County Commissioners will act on this quite quickly, if any  
4 members of the Planning Commission wants to structure a specific  
5 recommendation and submit it in the form of a memo or letter of record to  
6 the Board of County Commissioners. This does not strike me as a  
7 process that a nine member panel can get through very quickly or  
8 effectively.  
9

10 **10:47:14**

11  
12 **Paralez:** So the clarification would be that in recommendation Option #2,  
13 you would prepare a document like this that would clarify the additional  
14 modifications, so this is sort of an extension of Commissioner Foritano's  
15 comment, that we clarify the modification to what we're recommending to  
16 approve.  
17

18 **Sommerhauser:** *That is not the intent of my motion. My intent is that we*  
19 *would deal with this the same way we handled the Design Standards,*  
20 *which is that we move to approve the Plan, hold out two specific items and*  
21 *spell out how we want them changed.*  
22

23 **Paralez:** So the corrections the staff proposes, or the additions we make  
24 will be included in this document?  
25

26 **10:48:17**

27  
28 **Sommerhauser:** The explanations of the history are in those documents.  
29 Personally I have debate with two items, and I will propose changes to  
30 those two items, if we get through this motion.  
31

32 **Paralez:** So, the modification to the Community Plan that staff is  
33 proposing are included in this document, and you are also proposing  
34 additions and changes to this document.  
35

36 **Taylor:** Wouldn't it be to list the changes as part of your motion?  
37

38 **Sommerhauser:** *The changes will be on 2.4.2, Height Restrictions, we*  
39 *still have no discussion of two stories and I would change it to say 28 feet*  
40 *and two stories. This is what we have heard specifically from everyone in*  
41 *the community. The 35 foot, the way it is spelled out for the View*  
42 *Protection Overlay Zone and the three conditions would be almost*  
43 *impossible to meet, but if they can do it, go ahead.*  
44





1 **Knutson:** Development can only be designated to serve the existing meet  
2 existing and projected rural population and must be consistent with the character  
3 of the existing area, which the Growth Board has determined to exist prior to  
4 1990.” So if we make the zoning in the Limited Area of More Intensive Rural  
5 Development meet or exceed that of our Urban Growth Areas, we would be  
6 appealed and will most likely lose on that.

7  
8 Also, the nearest Urban Growth Area is Port Orchard, which is approximately a  
9 mile away and as we saw through the 10-year update, Port Orchard is not  
10 projected to extend to Manchester in the next 20 years.

11  
12 **10:59:28**

13  
14 **Gustavson:** It’s fun to debate this business of the law, because I’ll read  
15 sub-paragraph C.3 “Non-residential use shall be provided in a manner of  
16 use that does not promote urban sprawl,” but ½ acre lots are urban  
17 sprawl. The law is really badly written, because the paragraph just above  
18 that supports what you just said. It’s crazy.

19  
20 **Nevins:** *Manchester is not an Urban Growth Area it is a Limited Area of*  
21 *More Intensive Rural Development.*

22  
23 **Jenniges:** *We are spinning wheels here; this has to go onto the Board of*  
24 *County Commissioners. It’s not perfect; there will always be people who*  
25 *want to appeal. Now we are nitpicking and the planning and permitting*  
26 *process will resolve 98% of these issues and those not resolved will be*  
27 *appealed.*

28  
29 **11:01:20**

30  
31 ***The amendment to the motion is to make minimum lot size, 9 lots to the***  
32 ***acre.***

33  
34 **The VOTE (on the Amendment):**

35 **For: 1**

36 **Against: 6**

37 **Abstain:**

38  
39 **The motion fails.**

40  
41 **Sommerhauser:** As a question, the language before us, on page 9 on  
42 non-conforming lots, this is a slight revision of the 2002 language. Is that  
43 correct?

44  
45 **11:02:18**

1 **Knutson:** *Confirms the language is basically the same, but was only changed*  
2 *slightly during the 10-year Plan. And does not think the community would object*  
3 *to reverting to the language adopted in December of 2006.*

4  
5 **11:02:55**  
6

7 **Foritano, Knutson confirm that the net effect of the legal language change**  
8 **is nil.**

9  
10 **Sommerhauser:** *As I understand it, the change here is in the A and B; the B has*  
11 *a reference to a residential structure that did not appear in the 2002 language,*  
12 *which was good through 2006, is that correct?*

13  
14 **11:03:30**  
15

16 **Knutson:** *It did appear. The legal team read it as a run-on sentence so they*  
17 *broke it out into sections. It is essentially the same language.*

18  
19 **Jenniges:** *I agree with Commissioner Foritano's recommendation that if a*  
20 *Planning Commissioner who feels the language does not meet his or her*  
21 *interpretation, they should write the narrative and submit it to staff for*  
22 *review. I have gone back and forth, for and against this, but I believe the*  
23 *permitting and granting process will resolve these issues and if not, people*  
24 *will appeal.*

25  
26 **11:04:57**  
27

28 **An amendment to the motion is made by Commissioner Gustavson that on**  
29 **page 9 that paragraph 2.2.3, the third paragraph, beginning "Non-**  
30 **conforming lots in common ownership..." be deleted.**

31  
32 **Gustavson:** *The reason being that it is impossible to understand as*  
33 *written. (Reads paragraph 2.2.3 from the Plan) One sentence says the*  
34 *lots must be combined, the next sentence says they cannot be combined.*  
35 *The classic example is where people bought tax parcel lots that are*  
36 *contiguous. Now we say if you built a house on it you can sell it, if you*  
37 *didn't build on it, you can't sell it. That's not fair, if the taxes were paid.*

38  
39 **11:08:00**  
40

41 **Clarification that the third paragraph also includes sub-paragraphs 1 and 2.**

42  
43 **Taylor:** *Envision a block of lots in Manchester, which are usually 40 feet*  
44 *by 100 feet wide. Does this allow the individual who owns one lot to build*  
45 *on that lot?*  
46

1 **Gustavson, Knutson confirm that it does.**

2  
3 **Gustavson:** In this example, if he builds a house on one of them, he can't  
4 sell the other lot, although his neighbor can. It doesn't treat people  
5 equitably.

6  
7 **11:09:31**

8  
9 **Knutson:** This has been the hardest part of the language to deal with. We have  
10 had many meetings about it and the committee cannot agree. The reason this  
11 paragraph is in there, essentially the aggregation portion, is because lot  
12 aggregation is legal for public safety. This was included to help deal with  
13 stormwater issues so you have some area for water can infiltrate through  
14 undeveloped land. I think we didn't hear much about that issue because many  
15 assumed this would be here to address stormwater issues. Again, half the  
16 community would approve and half would not, which is where Staff is also.

17  
18 **11:11:04**

19  
20 **Jenniges:** The permitting and construction process will take care of  
21 stormwater issues. What Commissioner Gustavson is pointing out is the  
22 word MUST, which voids the last sentence.

23  
24 **Sommerhauser:** I will vote against the motion, if it fails, I will give you a  
25 motion to go the 2002 plan, non-conforming lots, page 10, and keep that  
26 language with no changes.

27  
28 **11:13:28**

29  
30 **The VOTE:**

31 **For: 3**

32 **Against: 5**

33 **Abstain: 0**

34  
35 **The motion fails.**

36  
37 **An amendment to the motion is made by Commissioner Sommerhauser**  
38 **and seconded by Commissioner Jenniges to maintain the language of the**  
39 **2002 plan, page 10, the non-conforming lot language, which is exactly the**  
40 **same as the new proposal, (*reads from the 2002 plan*).**

41  
42 **Sommerhauser:** The language might be hard to read, but has stood the  
43 test of time without being appealed.

1 11:16:35

2  
3 **Commissioner Sommerhauser clarifies that the motion is to retain all three**  
4 **paragraphs of the non-conforming lot language of the 2002 Plan.**

5  
6 11:16:52

7  
8 **Knutson:** The language can be found on page three of the staff report

9  
10 **Taylor:** How would this paragraph three affect the owner of the 40 by 100  
11 **foot lot?**

12  
13 **Knutson:** *If they own one, they are subject to single-ownership requirements*  
14 *and can develop their lot if they can get it through the permitting process.*

15  
16 **Foritano:** By substituting the 2002 language, is any other aspect of the  
17 2007 plan affected, to your knowledge?

18  
19 **Knutson:** No, the language is essentially the same.

20  
21 11:18:01

22  
23 **Sommerhauser:** In trying to clarify it, it became more confusing. It may  
24 not have been perfect, but is clearer than any other modification I've seen.

25  
26 **Nevins:** The nice thing about Commissioner Sommerhauser's motion is  
27 that it takes away an appeal because the appeal period has long passed  
28 for this language.

29  
30 11:18:30

31  
32 **Clarification that by retaining the language from the 2002 plan, it removes**  
33 **paragraph 3 of page 9 in the 2007 plan, and adds paragraph 3, page 10 of**  
34 **the 2002 plan.**

35  
36 11:19:04

37  
38 **Gustavson:** *The last sentence says, "...after adoption of this plan, lots*  
39 *taken out of common ownership will not be eligible for single-ownership*  
40 *regulations of this plan." It turns out that when lots are illegally created,*  
41 *the legislature passed RCW 57.18.210 which contains an innocent*  
42 *purchaser exemption to the general prohibition of denying building permits*  
43 *in violation of state and local laws.*

1 **An amendment to the amendment to the motion is made by Commissioner**  
2 **Gustavson and seconded by Commissioner Coppola to delete the last**  
3 **sentence of the original 2002 language.**

4  
5 **11:20:31**  
6

7 **Nevins:** Regarding the innocent purchaser, we should probably do a  
8 better job of making sure there aren't any in Manchester by applying a  
9 little language at some level so we don't have this problem.

10  
11  
12 **The VOTE: (on the amendment to the amendment to the motion.)**

13 **For: 4**

14 **Against: 4**

15  
16 **The motion fails.**

17  
18 **11:21:58**  
19

20 **The VOTE: (on the amendment to the motion.)**

21 **For: 6**

22 **Against: 2**

23 **Abstain: 0**

24  
25 **The motion carries.**

26  
27 **11:23:05**  
28

29 **An amendment to the motion is made by Commissioner Sommerhauser**  
30 **regarding**

31  
32 **Knutson:** Calls for a motion of reconsideration to refer to the 2006 language,  
33 which has already been adopted. The 2002 language would be subject to appeal  
34 as it has since been revised by the 2006 language.

35  
36 **Sommerhauser:** We didn't like the language in 2006. I understand we  
37 misspoke when saying that the language cannot be appealed, but we  
38 want to keep the 2002 language.

39  
40 **Knutson:** I just wanted to make sure it was brought forth and clarified.

41  
42 **An amendment to the motion is made by Commissioner Sommerhauser in**  
43 **paragraph 2.4.2, Height Restrictions in the View Protection Overlay Zone,**  
44 **add the words "and two stories," in addition to the words 28 feet. The rest**  
45 **will remain the same.**  
46



1 **Diener:** One comment from staff is that we haven't had time to review this, and it  
2 does open a can of worms.

3  
4 **Gustavson:** *It is a legitimate concern that he can't build to the same*  
5 *height as his neighbors. That's where we missed in 2002.*

6  
7 **11:32:47**

8  
9 **Taylor, Sommerhauser comment that the Hearings Examiner should handle**  
10 **this, but only if the Planning Commission gives direction.**

11  
12 **Paralez:** *Can't we let staff study and resolve this instead of causing all*  
13 *kinds of unintended consequences by imposing a very specific solution?*

14  
15 **Knutson:** *Yes, and this can be prepared in a minority report.*

16  
17 **Sommerhauser:** *Would you be willing to get a vote on your intent, but*  
18 *have staff write the language?*

19  
20 **Knutson:** *Notes that the language on determining height is written into our*  
21 *County code and that this also hasn't been vetted in the community.*

22  
23 **Gustavson clarifies that the motion is to replace sentences 2 and 3 of**  
24 **paragraph 2.4 with wording that provides equitable treatment for views.**

25  
26 **11:35:02**

27  
28 **Discussion on how the height is determined by the County, which is to take**  
29 **the low to the high, average the height to find the mid-point of the grade.**

30  
31 **Nevins:** *The intent is to protect the views and I see a problem with looking*  
32 *at individual pieces of property. I am not ready to judge on any specific*  
33 *language, though I am willing to let Staff have a hand at it.*

34  
35 **Clarification that Staff will not bring this language back before the**  
36 **Commission for approval. It will go forward with the Plan.**

37  
38 **11:37:05**

39  
40 **The VOTE: (on the amendment to the motion, with Staff looking at and re-**  
41 **wording the language to reflect the intent of Commissioner Gustavson's**  
42 **motion, if possible)**

43 **For: 7**

44 **Against: 1**

45 **Abstain:**

46 **The motion carries.**

1 11:37:52

2  
3 **The VOTE: (on the main motion to accept recommendation Option #2.)**  
4 **Unanimous**  
5 **The motion carries.**

6  
7 11:39:02

8  
9 **F. Work Study: 2007 Phase II Code Development: Eric Baker, Special**  
10 **Projects Manager, Office of the Board of County Commissioners**

11  
12 **Baker:** *Prefacing comment that the assumption in this code that height*  
13 *regulations will work for more than 70% of the properties is likely erroneous. It*  
14 *comes with litigation and additional issues and currently has four exemptions.*  
15 *Documents coming before you are associated with GMHB appeals and Capital*  
16 *Facilities. One map shows the expanded Urban Growth Areas with all invalid*  
17 *expansion areas in white. The second map shows the same areas in gray with*  
18 *all the existing sewer lines.*

19  
20 **Taylor clarifies that in light of time, Eric Baker is replying to my request**  
21 **that we present these maps to the PC today.**

22  
23 11:42:00

24  
25 **Baker:** *This is my third time before the Planning Commission after some very*  
26 *intensive discussion regarding a number of issues Commissioners have had with*  
27 *proposed change components. To date we haven't received any comments from*  
28 *that the Commission on this internal draft. Are Commissioners comfortable with*  
29 *having looked these over and speaking to them?*

30  
31 11:43:20

32  
33 **Sommerhauser:** *Questions whether it is appropriate for the Planning*  
34 *Commission to review an internal draft in accordance with the Public*  
35 *Meetings Act*

36  
37 **Baker:** *Your opinions are solicited prior to public release. This was an attempt to*  
38 *address a past concern with the intent that the Planning Commission is acting as*  
39 *individuals to get as much information in front of the public as possible.*

40  
41 **Jenniges:** *It is an attempt not to blindside us.*

42  
43 11:45:43

44  
45 **Sommerhauser:** *If a member of the public walked up and asked me for a*  
46 *copy, can I give it to him?*

1 **Baker:** *Yes, and it is also available on the county website. The term internal may*  
2 *be off-putting, but it is not mean to imply confidentiality.*

3  
4 **Nevins:** *I'd like to hear where we are with auxiliary dwelling units in the*  
5 *rural areas, outside the Urban Growth Areas.*

6  
7 **11:46:50**

8  
9 **Baker:** *Should I speak to what appears in the preliminary draft at this point?*

10  
11 **Nevins:** *I'm concerned about the development in the rural area.*

12  
13 **Baker:** *The preliminary draft, in relation to rural development changes the*  
14 *maximum square footage of an accessory dwelling unit from 900 to 1200 square*  
15 *feet. It creates a possibility that the accessory dwelling unit may not necessarily*  
16 *access off the same access point of the primary residence. Also allows that the*  
17 *accessory dwelling unit does not have to look exactly the same as the main*  
18 *dwelling, but can look like another rural structure. Still need a conditional land*  
19 *use permit and strengthens rules that you can only have one accessory dwelling*  
20 *unit or one accessory living unit; the distinction is that one is inside and one is*  
21 *outside, but you can not have both.*

22  
23 **11:48:47**

24  
25 **Taylor:** *When will we see accessory dwelling units on our agenda?*

26  
27 **Baker:** *It would be part of Code Amendments, but due to the fact that we haven't*  
28 *had the opportunity to speak with the Planning Commission or the Board of*  
29 *County Commissioners before public release, they have been pushed back to*  
30 *January, with Planning Commission likely in late January.*

31  
32 **Jenniges:** *If I have an accessory dwelling unit and we decide to move,*  
33 *what happens to the property?*

34  
35 **11:49:35**

36  
37 **Baker:** *That Conditional Land Use Permit follows the property. You can have a*  
38 *relative live in it or you could rent it out as long as it is approved as an accessory*  
39 *dwelling unit. If the dwelling unit has specific criteria to do with a member of the*  
40 *family with a specific need, that criteria would have to be met again or the permit*  
41 *would be invalid.*

42  
43 **11:50:19**

44  
45 **Taylor:** *We are off-subject; I'd like to defer this accessory dwelling unit*  
46 *topic for later. Starting with the sewer maps, did you have any*  
*comments?*

1 **Baker:** We might as well close the discussion on Code Development. We will  
2 hold open any comments from the Planning Commission until December 1<sup>st</sup>, after  
3 that we will put together a public draft. I just want to acknowledge that I did try to  
4 interface with the Planning Commission prior to public release.

5  
6 **Jenniges:** I would recommend that you stress the aspect of the  
7 accessory dwelling unit having to do with the disability issue.

8  
9 **Taylor:** We will discuss that at another time.

10  
11 **11:51:55**

12  
13 ***Taylor defers agenda item F to the November 27<sup>th</sup> Planning Commission***  
14 ***meeting.***

15  
16 **11:52:26**

17  
18 **Baker:** *Maps show invalid expansion areas. The moratorium only allows a few*  
19 *things including single family residences, tenant improvement to existing*  
20 *structure. Second map shows sewer lines in white and in gray shows the*  
21 *expansion areas. What is currently being done by the County and sewer*  
22 *purveyors is an extensive planning process for main lines and pump stations.*

23  
24 **Taylor:** This is almost as good as a report from the sewer district.

25  
26 **Coppola:** *How does the Growth Management Hearings Board decision*  
27 *affect annexation?*

28  
29 **11:54:25**

30  
31 **Baker:** *Currently prosecutors have looked at it and consider it a gray area that*  
32 *we are not currently pursuing. We have the expectation that various cities may*  
33 *or may not address. We have the assumption that an invalid Urban Growth Area*  
34 *would likely be perceived as not an Urban Growth Area. According to the Growth*  
35 *Management Act, we can only annex into Urban Growth Areas.*

36  
37 **Coppola:** If you have city limits and another Urban Growth Area that you  
38 wanted to annex part of, is that possible?

39  
40  
41 **11:55:08**

42  
43 **Baker:** Hypothetically, if we are discussing the McCormick Village Urban Growth  
44 Area, that is a valid Urban Growth Area. If there is a connection between a city,  
45 it could annex into that legally.

1 **Coppola: (Compliments Mr. Baker's public information skills.)**

2  
3 **11:56:10**

4  
5 **Gustavson:** *How will we pay for the sewer issue in total?*

6  
7 **Taylor:** *We're not getting into that today.*

8  
9 **Gustavson:** *The way we write our rules today, the developer extends the*  
10 *line out to support his development, and if the next guy comes along and*  
11 *the first pipe is too small, it has to be removed and replaced as needed.*  
12 *Isn't it easier and more effective to just put in a main line system?*

13  
14 **Baker:** *The short answer is that materials coming from the County and purveyors*  
15 *will show main lines and likely the main lines will become the standard. The*  
16 *County is laying down main line skeletal framework for future use. Of course*  
17 *these are only main lines, and there will still be the last mile that needs to be*  
18 *addressed, but the expectation is that with the main skeleton down, the cost*  
19 *estimates will decrease for the private sector.*

20  
21 **11:58:16**

22  
23 **Gustavson: (Questions how we will implement the skeleton system.)**

24  
25 **Baker:** *The County will design the location of the skeleton and specify the*  
26 *location as it should be able to serve a particular area.*

27  
28 **Gustavson:** *Who will build it?*

29  
30 **Baker:** *Can be by a wide variety of individuals. We don't have the ability to look*  
31 *20 years into the future for the funding aspects that may be available and we are*  
32 *currently only required to look six years ahead.*

33  
34 **Gustavson:** *This incremental slow creep is happening and if we are*  
35 *slowly moving out into some of this undeveloped land, there are some*  
36 *developers that don't want to sell their lots and some that do.*

37  
38 **Taylor:** *You are reminding me of 1997 when I tried to get the County to*  
39 *put in a sewer line from Bucklin Hill to Barker Creek down Tracyton*  
40 *Boulevard, and their answer was no.*

41 **12:00:20**

42  
43 **Sommerhauser:** *Would it be possible for you to provide the same brief*  
44 *that you gave to the State Capital Facilities budget committee?*

45  
46 **Baker:** *Yes. We can provide it electronically or come forward and present it.*

Kitsap County Planning Commission – November 13, 2007

1 **Sommerhauser:** Will you also include in that what we know of senator  
2 Sheldon's bill?

3  
4 **Baker:** We can present what our understanding of that bill is.  
5

6 **Sommerhauser:** *When you hear the baseline numbers, the cost is huge.*  
7

8 **Gustavson:** *It's not impossible.*  
9

10 **12:01:57**

11  
12 **A motion is made by Commissioner Jenniges and seconded by**  
13 **Commissioner Paralez to adjourn the meeting.**

14  
15 **For: Unanimous**

16 **Against:**

17 **Abstain:**  
18

19 **The motion carries**  
20

21 **Time of adjournment: 12:12:12**  
22

23 **EXHIBITS**

24 A. Manchester Community Comment Matrix

25 B. Copy of comment packet from Hella-Ilona Johnson, including cover  
26 letter  
27  
28

29 **MINUTES approved this \_\_\_\_\_ day of \_\_\_\_\_ 2007.**  
30  
31

32 \_\_\_\_\_  
33 John Taylor, Chair  
34  
35

36 \_\_\_\_\_  
37 Amanda Walston, Planning Commission Secretary