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

9:04:15

A. Call Meeting to Order, Introductions

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

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

The VOTE:
For: 6
Against:
Abstain: 2

The motion carries

9:06:03

C. Director Update – Larry Keeton, Director, DCD

Keeton: Congratulations to Commissioner Coppola on being elected mayor of Port Orchard, we look forward to working with and improving the County’s relationship with the City of Port Orchard.
Keeton: The appeal to the Director’s interpretation regarding the 35 feet and two stories issue in Manchester was denied by the Board of County Commissioners on Monday night, which means that 3 stories will not be allowed in Manchester. Another appeal to a specific project has not been decided yet.

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

9:08:41

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

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

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

9:11:23

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

Keeton: At this point, the moratorium does not allow connections to sewer within 250 or 500 feet. The Growth Management Hearings Board did not receive a positive reaction and the County is putting together a plan for expansion.
Sommerhauser: The Growth Management Hearings Board negated this ruling because we don’t have a Capital Facilities Plan, and the County is creating a plan on how it intends to expand the sewers; will this plan require guaranteed financing?

Keeton: The plan did contain a Capital Facilities Plan; it just wasn’t detailed enough. The issue is not the fact that we have sewer capacity to support the expanded growth areas; it is where these main systems and pump stations are and will be located. They want a proposal that shows not only how to expand the system, but also how to pay for it. We addressed these items in the Kingston plan and we are now in compliance per the Growth Management Hearings Board.

Sommerhauser: How do we plan to pay for Kingston?

Keeton: There are several different ways including a Local Improvement District, as well as developers cost. It’s more than just developers having to pay for expansion that the County allows. The interesting piece is that the expansion areas are served by the County and they are the ones who wanted assurances and we will address these in the February Plan.

Nevins: Between the time the county passed the 10 year update and the invalidation, were there any non-exempt applications, like subdivisions that got vested during that time?

Keeton: I only know of 3 applications that were even interested back then, I’ll go back and check. I think we had one property that is already vested and is completed, the second is in the south Kitsap area and there was another also.

Nevins: (Requests follow up on any other projects.) Do you see a value then to having a County procedure or rules that prohibits accepting applications prior to the challenge? It seems like we get ourselves into difficult situations.

Keeton: My personal opinion is when the Board of County Commissioners passes the Comprehensive Plan, it is considered valid and the Supreme Court is ruling that local governments need to have jurisdiction over their planning and that should be taken into consideration. If there is an appeal and it gets overturned, it’s a whole different process. How many projects actually made it in between the passing and the invalidity? In this case it is three. Eventually they will probably be built.
Keeton: I would hesitate to say we are passing laws here, but if you want to wait to do anything or allow anything to go forward until all the challenges and appeals and objections are over with, I'm not sure if that's the way we want to run government.

9:17:52

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

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

9:18:53

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

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

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

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

9:21:25

Gustavson: We're going to hit pretty hard this morning on a direct violation of the State's Innocent Purchaser Law of 1969 that is in the Manchester Plan and is a direct violation of State law.
Nevins: A comment on Commissioner Gustavson’s concern; I’ve taken a look at GMHB decisions over the past few years and the county prevails about 75% of the time, so it is not all the time or every case that’s overturned.

Keeton: There doesn’t seem to be a Comprehensive Plan in the State of Washington that is not being challenged. King, Snohomish, Pierce counties have all been challenged.

Gustavson: I’m not concerned about the challenges; it’s the successful challenges, where things are pretty obvious when the rubber meets the road.

Jenniges: Graham was also challenged.

Keeton: On this issue of Capital Facilities that the county got nailed on, most folks have been doing it this way for a long time. It’s only a recent change in trend that is happening.

Gustavson: But we’ve asked that question over and over again on sewers.

Taylor: (Officially requests that copies of all Growth Management Act orders be distributed to the Planning Commissioners.) I’ve been requesting reports from sewer districts for the past several months. The most recent suggestion was to have two sewer districts present to the Planning Commission in terms of their plans and progress. If we could get two at each meeting until the end of the year, we could probably be done. I’ve been asking, but I don’t see it happening.

Diener: Chair Taylor and I have recognized that we didn’t have time at these recent meetings because of items already on the agenda such as Site Specifics and Code Amendment. We were looking at doing this at perhaps the next meeting or the December meeting.

Taylor: We are trying to get more to the point of planning instead of crisis management.

Keeton: You have to do that with the staff you have, whose schedule is set for them by the Board of County Commissioners. Internal priorities right now are to finish the two plans we currently have, which are Keyport and Manchester.
Keeton: An infrastructure group is looking at sewers for the expanded Urban Growth Areas. There are a lot of things happening and groups trying to get required information to you. Whether we can get the sewer districts to come in here, is a whole different issue.

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

Taylor: That’s part of the problem we need to work through.

9:26:28

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

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

9:29:34

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

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

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

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

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

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

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

Keeton: State Legislature considered a fee for the appellant and it didn’t get off the floor.

Taylor expresses appreciation for the report. Keeton confirms that going forward the updates will be standard on the first Tuesday of each month, not every meeting.
D. Deliberations: Site Specific Comprehensive Plan Amendment  
(Lindstrom): Scott Diener, Manager, DCD

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

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

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

Foritano: Are the four reasons for denial the same?

Diener: Yes.

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

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

A motion is made by Commissioner Jenniges and seconded by Commissioner Coppola to approve the Lindstrom Application.
(Clarifying questions are allowed from applicant or his counsel at this point, but no additional testimony)

Gustavson: What was the zoning?

Diener: Rural protection

Gustavson: Which is intended for future city development or future urban use, right?

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

Gustavson: Keeping it rural forever.

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

Gustavson: But it’s not covered by critical areas of more than 50 percent?

Diener: The subject property is not.

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

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

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

Nevins: Recalling Commissioner Jenniges’ comments on the surrounding areas, I’m not sure when these divisions happened, but I assume it was prior to the Growth Management Act. Obvious mistakes were made in the past by allowing these smaller lot developments, but this is not a good reason to continue the pattern. Every lot borders another lot, and a continuation of that mistake is not something that I can support.
Taylor: I hear your comment, which is two wrongs don’t make a right.
(Calls for any other comment before returning to Commissioner Jenniges
to open the secondary round of comment.)

9:44:43

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

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

9:45:59

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

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

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

9:48:13

Taylor: We are getting into arguments amongst ourselves, the simplest
way to resolve the conflict of opinions is to vote.
Diener: I would be remiss to not point out something based on the discussion I've heard so far. Historically small parcels being developed in a same area is not a factor that should be considered when making decisions. If you read with me from an order issued by the Central Puget Sound Growth Management Hearings Board in 1995 that says: “The County cannot base its future planning on new growth based on its past development practices if those practices do not comply with the GMA.” I think that addresses at least some of what I’ve heard from the Commission today.

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

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

Foritano: (Asks for confirmation that there is in fact no rural residential zoning contiguous to Mr. Lindstrom’s request.)

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

Taylor: What is the zoning of the Chaffey Development?

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

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

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

Diener: That is correct

Sommerhauser: Part of the testimony we got was some folks down in the development south of these properties.
As I remember the discussion, the view was that access to these properties for development would be off one of the two cul de sac roads on the southern edge. Can you tell us how much traffic we estimate for eight houses or sixteen houses?

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

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

Diener: That is an average.

The VOTE:
For: 5
Against: 3
Abstain:

The motion carries.

BREAK

RECONVENE

E. Deliberations and Recommendation: 2007 Manchester Community Plan Update: Katrina N. Knutson, Associate Planner, DCD

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

Public comment period ended October 31, 2007. Of the 19 comments received, 14 were in support of the Plan as written and five opposed portions of the Plan.
The portions opposed include Public Participation, 35 foot height limitation within the Manchester Commercial Village Zone, and non-conforming lot language.

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

Through Keyport, this board has recommended to staff that we bring forward a consistent method of deliberations for Planning Commission recommendation (Refers to the November 1st summary with options as listed.)

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

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

10:13:34

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

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

10:14:00

Taylor: If we do not pass a recommendation on Manchester today, it will go before the Board of County Commissioners on November 27th for their action whether we give our opinion or not.

Gustavson: That’s fine; they can take our recommendation into consideration and make their own movement.
Knutson: Notes that during the Work Study, the Commissioners were not very supportive of not getting the Plan passed this year.

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

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

10:16:48

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

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

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

10:18:57

Gustavson: Another issue is minimum lot size. LAMIRDs (Limited Areas of More Intensive Rural Development) in the Growth Management Act are directed not to increase urban sprawl but to maintain the character of the neighborhood. We have ½ acre and ¼ acre zoning and we have minimum lot sizes of five homes to an acre, but none of that matches our Urban Growth Area standards. Looking ahead, Port Orchard and Manchester may be joined, but we have created urban sprawl in Manchester. We also have sub-standard lots.
Gustavson: Professor Johnson submitted documents (refers to packet handed out with cover letter) showing a set of five examples, in four cases, the existing property owner has built a house on Lot B and then picked up some additional 25 foot lots for future investment, but he won’t be able to sell those even though that was not his original intent. At the same time, Lot A is Buildable at 3,200 square feet. If the parcel of one of these others had been sold since 2002 and is less than 8,700 square feet, it would not be buildable.

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

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

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

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

Taylor: Asks for clarification of the maximum height restriction

Knutson: In the View Protection Overlay Zone it will be 28 feet, outside of that the limit will be 35 feet.
Coppola: And the commercial zone lies outside of that?

Knutson: The commercial zone is at 28 feet, based on the Planning Commission’s recommendation.

Taylor: Regarding signage, it falls underneath the County’s sign ordinance?

10:25:57

Diener: Commercial design standards do speak to signage and are more restrictive than the County’s overall signage language.

Foritano: I cannot support the recommendation to have this whole thing be re-started or reconsidered. I am moved by the fact that the process was not perfect and that there are many exceptions and qualifications to it, but if this is not acceptable, after a year, I don’t know what is.

Sommerhauser: I will not support sending this back again. A great effort was put forth in 2002; unfortunately the written result didn’t come out quite as the original Manchester 42 intended. Listening to testimony there appears to be two issues to be worked out in this process, but that is what we are here to do. I will vote against this motion and be prepared to work on the two issues.

10:27:38

Coppola: If another sub-area plan was this sloppy, you would accept it?

Sommerhauser: First, I don’t think the Plan is sloppy. Second, I wish community groups all over the County realized that their processes are not following the rules for notification and involvement that we have to live by on this panel. But, I believe the citizens are protected as long as we do live by those rules. Where the opportunity is given to see, comment on, give testimony on what is being proposed; we take another shot at it and then send it to the Board of County Commissioners.

The Planning Commission followed the process, even if the Community did not go about this process perfectly. I agree that they did not, but I have enough to look at here with the testimony I have to go back over the two problems we have in the package before me and try to resolve those today. We may not get through that, but if we don’t at least we will have done due diligence instead of punting.
Jenniges: I'm one way or another on this, I think they worked hard and attempted to do a good job, but I'm not sure that the attempt is enough to fulfill the purposes. I think there is still a major issue of parking in front of these businesses, as the owners have set aside and intended for. The signage is also very restrictive.

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

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

Knutson: Thank you.

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

In the case of Manchester, a whole different picture comes forward. This is a community left on their own. And naively, they came forward with a lot of ideas that they felt impassioned about, but they didn't have the technical expertise to support them, on my terms, that would have addressed these issues that are very appealable. In order to avoid the appeal issue, these things should have been addressed in the Plan, and they're not. Some of it is staff wording, unfortunately, that came on later on buildable lots.
Gustavson: So, I see real issues coming out of this and I think this is sad that we have to go back and spend a lot more taxpayer money re-addressing these same issues. In all likelihood, if anybody appeals it we’ll go right back and do the same thing again, and it’s expensive for what is supposed to be a constrained County with its money. I think we are throwing our money out the window by going ahead with this, naively believing in maybe somebody just won’t appeal it. I can’t imagine they wouldn’t.

10:33:36

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

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

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

Jenniges: the same thing’s going on with Illahee.

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

10:34:40

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

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

10:35:01

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

Gustavson: In a County under financial constraints, I think we should be more conscious. Whether you agree with the Plan or the outcome, it is certain to be appealed.
Gustavson: Can we afford to deal with that or should we send it back, ask them to clean up the process and bring it back again? I think that would be less costly.

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

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

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

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

Many of these issues you have brought forward to Staff, this is not necessarily our opinion. We’ve vetted this all through the community process and as we have told you a ton of times, Manchester is split 50/50 on what they want to see. And what is before you is the majority community recommendation. It is the majority of the community’s opinion that what is in that document is what they want. Nobody on staff that has worked on this plan lives in Manchester; we just want to see this plan go forward so it can help the majority or all of Manchester, as many people as we can help.
Knutson: A lot of the issues you’ve brought up as far as the non-conforming lots, how to determine height, and the minimum developable lot size; the majority of those were not changed through this process. If you look at the 2002 Plan and this Plan, they are basically the same, and the reason for that is through our community meetings, when we took votes, the majority of the people at those meetings wanted the language to stay the way it is.

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

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

10:40:39

Jenniges: Is it understandable?

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

10:40:59

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

Knutson: You can modify the Plan yourself using Option #2, or under Option #3 you can pass the rest of the Plan and leave the non-conforming lot, or whatever section you want, out and ask Staff to work on it again in 2008. This is a very large document, and there are only three things we are talking about. (Begins to speak about the legality of Lot Aggregation.)
A point of order is called by Commissioner Sommerhauser that, at this point, discussion is not relevant to the motion, which is to defer the plan to 2008.

(Taylor notes that all Commissioners have had a chance to speak to the motion)

Commissioner Coppola calls for the question.

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

The VOTE:
For: 3
Against: 5
Abstain: 

The motion fails.

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

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

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

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

(Sommerhauser, Knutson continue discussion on whether it is clear where the reference to 35 feet is, and decide to move on.)
Foritano: Given the amount of information and effort that has been put into the cluster development and non-conforming lot language, and since the Board of County Commissioners will act on this quite quickly, if any members of the Planning Commission wants to structure a specific recommendation and submit it in the form of a memo or letter of record to the Board of County Commissioners. This does not strike me as a process that a nine member panel can get through very quickly or effectively.

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

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

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

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

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

Taylor: Wouldn’t it be to list the changes as part of your motion?

Sommerhauser: *The changes will be on 2.4.2, Height Restrictions, we still have no discussion of two stories and I would change it to say 28 feet and two stories. This is what we have heard specifically from everyone in the community. The 35 foot, the way it is spelled out for the View Protection Overlay Zone and the three conditions would be almost impossible to meet, but if they can do it, go ahead.*
Sommerhauser: The other change relates to buildable lot size or lot aggregation and if staff can answer what happened to the addition from houses being on or not on from the old language to the new language. If I don't get a satisfactory answer, I will propose that we revert to the old 2002 language. It may be difficult to understand, but it has not been appealed in the past seven years.

10:50:30

Knutson: As far as the non-conforming lot language, I believe that the majority of the community would be supportive of the old language as adopted in December 2006, through the 10-Year Plan. The civil legal representative thought it was clearer to break it out this way, but if others do not agree, the community would be supportive of returning to the old language.

Under 2.4.2, it says, “...within the View Protection Zone, the maximum height shall be 28 feet,” and you also want to add two stories?

Sommerhauser: Yes, the community wants a maximum of 28 feet; it is spelled out how to determine those 28 feet, and a maximum of two stories.

Knutson: I believe the majority of the community would be supportive of that change as well.

10:52:10

Jenniges: Properties within the View Protection Overlay Zone may build as high as 35 feet under certain circumstances. 35 feet, when discussed throughout the other proposals specifies three stories. If we are this definitive, then it should also carry through that per languages in other plans that three stories was within the 35 feet designation.

Knutson: The community didn’t stipulate that outside the View Protection Overlay Zone. I think as long as it is 35 feet, the community would be fine with it.

Jenniges: So you believe that just the 35 feet basically implies three stories if someone wants to do it?

Knutson: I don’t necessarily believe that.

10:53:24

Jenniges: Well, that’s why I think we need to clarify it.

Taylor: My personal opinion is that we should stick with the 28 feet, and if someone wants to figure out how to fit three stories into that they can.
Taylor: Our concern is view protection. If someone wants to figure that out, we should let them, they will have to get the building permit for it.

(Knutson agrees with Chair Taylor)

Commissioners discuss agree that parliamentary procedure supports allowing for a basic motion and then specific amendment to the motion on the items of contention.

An amendment to the motion is made by Commissioner Gustavson in paragraph 2.2.3 to make minimum lot size conform to that of the Urban Growth Areas, which specifies 5 to 9 lots per acre.

Taylor questions whether specific reference should be made to the Urban Growth Area or if the wording “appropriate zoning for Manchester” will suffice.

An amendment to the motion is made by Commissioner Gustavson and seconded by Commissioner Coppola in Paragraph 2.2.3 to make minimum lot size accommodate 9 lots per acre.

Gustavson: This takes care of several non-conforming lot issues and the motivation for appeals. There are many lots in Manchester that were designed as 2,500 square foot lots that now are considered non-conforming lots and lots that are sideways and that should be buildable. They will still have to comply with stormwater requirements and sewer requirements, without question.

Taylor: Why do we even need to deal with this amendment? There is a whole process that people go through in getting a building permit. I think we’re trying to put a detail that affects a lot of people into our deliberations that is, perhaps, not necessary.

Knutson: As far as making the Limited Area of More Intensive Rural Development match Urban Growth Densities, the Growth Management Act states that “development within the Limited Area of More Intensive Rural
Knutson: Development can only be designated to serve the existing meet existing and projected rural population and must be consistent with the character of the existing area, which the Growth Board has determined to exist prior to 1990." So if we make the zoning in the Limited Area of More Intensive Rural Development meet or exceed that of our Urban Growth Areas, we would be appealed and will most likely lose on that.

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

10:59:28

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

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

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

11:01:20

The amendment to the motion is to make minimum lot size, 9 lots to the acre.

The VOTE (on the Amendment):
For: 1
Against: 6
Abstain:

The motion fails.

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

11:02:18
Knutson: Confirms the language is basically the same, but was only changed slightly during the 10-year Plan. And does not think the community would object to reverting to the language adopted in December of 2006.

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

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

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

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

An amendment to the motion is made by Commissioner Gustavson that on page 9 that paragraph 2.2.3, the third paragraph, beginning “Non-conforming lots in common ownership…” be deleted.

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

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

Taylor: Envision a block of lots in Manchester, which are usually 40 feet by 100 feet wide. Does this allow the individual who owns one lot to build on that lot?
Gustavson, Knutson confirm that it does.

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

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

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

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

The VOTE:
For: 3
Against: 5
Abstain: 0

The motion fails.

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

**Sommerhauser:** The language might be hard to read, but has stood the test of time without being appealed.
Commissioner Sommerhauser clarifies that the motion is to retain all three paragraphs of the non-conforming lot language of the 2002 Plan.

Knutson: The language can be found on page three of the staff report.

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

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

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

Knutson: No, the language is essentially the same.

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

Nevins: The nice thing about Commissioner Sommerhauser’s motion is that it takes away an appeal because the appeal period has long passed for this language.

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

Gustavson: The last sentence says, “…after adoption of this plan, lots taken out of common ownership will not be eligible for single-ownership regulations of this plan.” It turns out that when lots are illegally created, the legislature passed RCW 57.18.210 which contains an innocent purchaser exemption to the general prohibition of denying building permits in violation of state and local laws.
An amendment to the amendment to the motion is made by Commissioner Gustavson and seconded by Commissioner Coppola to delete the last sentence of the original 2002 language.

11:20:31

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

The VOTE: (on the amendment to the amendment to the motion.)
For: 4
Against: 4
The motion fails.

11:21:58

The VOTE: (on the amendment to the motion.)
For: 6
Against: 2
Abstain: 0
The motion carries.

11:23:05

An amendment to the motion is made by Commissioner Sommerhauser regarding

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

Sommerhauser: We didn’t like the language in 2006. I understand we misspoke when saying that the language cannot be appealed, but we want to keep the 2002 language.

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

An amendment to the motion is made by Commissioner Sommerhauser in paragraph 2.4.2, Height Restrictions in the View Protection Overlay Zone, add the words “and two stories,” in addition to the words 28 feet. The rest will remain the same.
Jenniges: I thought we resolved this issue?

Taylor: *Hearing no second – motion dies*

11:25:42

A motion is made by Commissioner Gustavson and seconded by Commissioner Coppola on page 13, paragraph 2.4.2 the second and third sentences *(reads language)* be replaced to say “building height shall not exceed 15 feet above the level of the upper road, above the property.”

Gustavson: This closely matches the intent, when looking at the typical lot drop of 30 feet; add 28 feet which is roughly 15 feet which is what you would expect to see as the average roofline. This way the view is protected to the intended level for all people above and building height is still restricted.

11:27:55

(Gustavson clarifies that the simple motion would be that “the roof height shall not exceed 15 feet above the level of the street on the higher side of the lot.”)

Sommerhauser: Would you be willing to allow staff to draft the language into the proper wording as long as your intent is reflected?

11:29:00

Discussion continues regarding how high the roofline can be regarding what the building height can be and how it applies to roads and property lines and road grades.

Taylor: We have established policies about height restrictions and how to measure them that are very precise. Your motion introduces a new way to go about that. This opens a whole new can of worms.

11:31:30

Diener: All properties are not treated the same, what about those without a road above them, or with a road to the side of them. There are lots that go five feet deep.

Gustavson: That’s why I put in the line about property lines *(refers to diagram)*
Diener: One comment from staff is that we haven’t had time to review this, and it does open a can of worms.

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

11:32:47

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

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

11:35:02

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

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

11:35:47

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

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

11:36:02

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

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

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

11:36:38

The VOTE: (on the amendment to the motion, with Staff looking at and rewording the language to reflect the intent of Commissioner Gustavson’s motion, if possible)

For: 7
Against: 1
Abstain:
The motion carries.

277
The VOTE: (on the main motion to accept recommendation Option #2.)
Unanimous
The motion carries.

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

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

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

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

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

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

Jenniges: It is an attempt not to blindside us.

Sommerhauser: If a member of the public walked up and asked me for a copy, can I give it to him?
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Baker: Yes, and it is also available on the county website. The term internal may be off-putting, but it is not mean to imply confidentiality.

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

11:46:50

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

Nevins: I’m concerned about the development in the rural area.

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

11:48:47

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

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

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

11:49:35

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

11:50:19

Taylor: We are off-subject; I’d like to defer this accessory dwelling unit topic for later. Starting with the sewer maps, did you have any comments?
Baker: We might as well close the discussion on Code Development. We will hold open any comments from the Planning Commission until December 1st, after that we will put together a public draft. I just want to acknowledge that I did try to interface with the Planning Commission prior to public release.

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

Taylor: We will discuss that at another time.

Taylor defers agenda item F to the November 27th Planning Commission meeting.

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

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

Coppola: How does the Growth Management Hearings Board decision affect annexation?

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

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

Baker: Hypothetically, if we are discussing the McCormick Village Urban Growth Area, that is a valid Urban Growth Area. If there is a connection between a city, it could annex into that legally.
Coppola: *(Compliments Mr. Baker’s public information skills.)*

11:56:10

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

Taylor: We’re not getting into that today.

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

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

11:58:16

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

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

Gustavson: Who will build it?

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

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

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

12:00:20

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

Baker: Yes. We can provide it electronically or come forward and present it.
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**Sommerhauser:** Will you also include in that what we know of senator Sheldon’s bill?

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

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

**Gustavson:** *It’s not impossible.*

12:01:57

A motion is made by Commissioner Jenniges and seconded by Commissioner Paralez to adjourn the meeting.

For: Unanimous
Against:
Abstain:

The motion carries

Time of adjournment: 12:12:12

EXHIBITS

A. Manchester Community Comment Matrix
B. Copy of comment packet from Hella-Ilona Johnson, including cover letter

MINUTES approved this ________ day of ________2007.

________________________________________
John Taylor, Chair

________________________________________
Amanda Walston, Planning Commission Secretary