

MINUTES

KITSAP COUNTY PLANNING COMMISSION
Administration Building - Commissioner's Chambers
March 3, 2009, 7:00 pm

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

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: Lou Foritano, Fred Depee, Linda Paralez, John Taylor, Mike Gustavson, Tom Nevins, and Robert Baglio

Members absent: Jim Sommerhauser and John Hough

Staff present: Eric Baker, Angie Silva, Jeff Rowe-Hornbaker, Dave Tucker, Doug Frick and Office Assistant II/ Planning Commission Secretary Karla Castillo

6:58:26

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

B. **Adoption of Agenda**

C. **Public Comments**

D. **Director's Update: Jeff Rowe-Hornbaker, Assistant Director, DCD**

Updates the board on the current state of DCD.

Discussion is held on exceptions that are being considered on old permits that have not been picked up and are currently outstanding.

7:10:34

E. **Deliberation and Recommendations - Waaga Way Connector Roads & Town Center Design Standards: Eric Baker, Project Specialist**

Baker: Goes over the three main topics that are included in the document.

These are the locations of the connector roads, the designs of the connector roads, and a suite of design standard augmentations to the Waaga Way Town Center. What staff would recommend is to take the road location and design questions first and try to come to some recommendations on those.

Baker goes over the process for deliberation and recommendations.

Discussion is held on proposed alternatives that were given and reasons they were not chosen.

7:14:23

Discussion is held regarding the development of the most northern point of the road.

Foritano: *Requests Baker to go over the changes that were made to the February 6th document and sample revisions dated February 27th after the Public Hearing.*

Baker: *Goes over the revisions to the document and gives reasons why.*

Discussion is held on Silverdale Design Standard 10.5.1 Site Development.

Baker continues going over revisions made to Waaga Way Town Center Design Standards.

7:31:49

A motion is made by Commissioner Nevins and seconded by Commissioner Paralez to accept the recommendations of the Waaga Way Town Center Design Standards dated February 6, 2009 with amendments proposed.

A motion for amendment is made by Commissioner Paralez and seconded by Commissioner Depee to revise figure 10.1 to show that the north south connector road be dead-ended where it jogs off to the west .

Paralez: *We have a number of comments from impacted citizens about that design as well as folks coming forward about the actual impact on the environment. As well as our own Commissioners leaning towards the idea that it is going to be sometime before we get to that place. If we don't put that in to the plan, we are more likely to come up with a better alternative plan.*

Depee: *I am going to add to that because I really agree with it. The public testimony after the last Public Hearing is what really made me change my mind on it.*

Nevins: *I understand the difficulties a connector road puts on any piece of property but I also understand the benefits one can do. **Nevins gives an example of Hwy 3 when it was put in.** I am going to vote no because I feel we need to look ahead on this. It has so many benefits and affects the choices that people will be able to make in the future.*

Depee: *Questions Baker on if we can put a stipulation on this, that in 10 years we look again at the connector road?*

7:41:25

1
2
3 **Baker:** You could put a provision to look at it again in 10 years, but there is no
4 guarantee that it will be done.

5
6 **Taylor:** *Compares connector road with Mickleberry and its original plan*
7 *versus its current state. He is in favor of at least putting it on paper and*
8 *working in that direction.*

9
10 **Baglio:** *If we vote on this and say yes we like this alignment, is there the*
11 *ability for someone to come in and modify the plan at a later date?*

12
13 **Baker:** Yes, there are components of the code to allow this.

14
15 **Gustavson:** *Is in support of the motion but feels that it puts too much on*
16 *the property owner to have this transportation restriction cloud on it.*

17
18 An amendment to the motion is offered by Commissioner Gustavson that
19 the road be connected from the north end point due west for planning
20 purposes. No second made.

21
22 Commission goes back to Commissioner Paralez motion to revise figure
23 10.1 to show that the north south connector road be dead-ended where it
24 jogs off to the west.

25
26 **The Vote:**

27 **4 yes**

28 **3 No**

29 **Motion fails**

30
31 **Baker:** *Discusses amending figure 10.2. Refers to PowerPoint and*
32 *discusses the different options for road design.*

33
34 Discussion is held on figure 10.2 Connector Road Design

35
36 A motion is made by Commissioner Baglio to accept the 60- foot ROW with
37 the two 12-foot driving lanes with sidewalks on each side; seconded by
38 Commissioner Gustavson.

39
40 Discussion is held on the motion.

41
42 **Baker clarifies that the original motion on the floor, if accepted, already**
43 **accepts the 60- foot ROW as the Connector Road Design.**

44
45 Commissioner Baglio withdraws the motion on the floor to accept the 60-
46 foot ROW.

7:58:16

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2
3 **Commission goes back to the original motion on the floor by**
4 **Commissioner Paralez to accept the recommendations of the Waaga Way**
5 **Town Center Design Standards dated February 6, 2009 with amendments**
6 **proposed here tonight.**

7
8 **The Vote:**

9 **Unanimous**

10 **The motion carries**

11
12 **A motion is made by Commissioner Paralez and seconded by**
13 **Commissioner Depee to incorporate the additional changes from the**
14 **February 27th revisions made by staff into the February 6th draft.**

15
16 **An amendment to the motion is made by Commissioner Nevins and**
17 **seconded by Commissioner Gustavson to change the first item that**
18 **expands the store foot print by 25,000 feet to 125,000 back to the original**
19 **100,000 feet.**

20
21 ***Nevins:** 100,000 square feet is a Target store. The argument that a*
22 *development needs an anchor is not something I am responding well to. I*
23 *don't see Silverdale as benefiting from an anchor type 200,000 square*
24 *feet store or even 125,000 square feet stores. I think 100,000 square feet*
25 *is sufficient with what we want to do.*

26
27 ***Depee:** I am going to disagree with that. I feel Costco has done a lot for*
28 *Silverdale.*

29
30 ***Gustavson:** Two examples were given to us: one a project from Shelton*
31 *and one from Gig Harbor. The both have very large anchor stores either in*
32 *or around the development. We were told by the three developers at the*
33 *Public Hearing that without a large store to anchor this development*
34 *project, it would not be economically feasible and would not be built.*

35
36 8:03:20

37
38 **Baker:** We took a look at the Gig Harbor developments that were shown. Both
39 included a Home Depot and a Target, both of which are less than 125,000
40 square feet in size.

41
42 **An amendment to the motion is made by Commissioner Baglio and**
43 **seconded by Commissioner Gustafson to remove the size limitation all**
44 **together.**

45
46 ***Baglio:** With the amount of commercial acreage that is there,. I think it*
47 *can support a larger store and just don't like the whole idea of limiting who*

1 **A motion is made to accept the Consolidated Use Table dated February 3,**
2 **2009 by Commissioner Taylor and seconded by Commissioner Paralez**
3

4
5 **Paralez: States footnotes 33 and 61 are the only revisions done.**
6

7 **Baker: Clarifies which footnotes have been revised and discusses**
8 **proposed.**
9

10 **Discussion is held on footnote 33 and the changes made to it.**
11

12 **The vote:**

13 **Unanimous**

14 **The motion Carries.**
15

16 **8:19:10**
17

18 **Break**
19

20 **8:24:34**
21

22 **Reconvene**
23

24 **F. Work Study - Kitsap County Code Title 12 Amendment - Stormwater**
25 **Development Regulations; Dave Tucker, Assistant Director, Public**
26 **Works/Jeff Rowe-Hornbaker, Assistant Director, DCD**
27

28 **8:24:59**
29

30 **Tucker:** Discusses revisions to Title 12 since the last meeting and went over
31 each change individually. He passed out a version of the proposed changes
32 dated 3/3/09 which includes Major Development Definition for Rural Projects
33 (12.08.010 #42), Site Stabilization Bonding not required for Kitsap County
34 Projects (12.12.010), set a threshold for when groundwater recharge matching is
35 required (12.18.050), and only require *flow control in Urban areas if 100 yr flow*
36 *increases by 0.1 cfs (12.18.110).*
37

38 **Discussion is held on the changes that are being made to Title 12. It is also**
39 **discussed that the Public Hearing for the changes to Title 12 is scheduled**
40 **for March 17, 2009 with deliberations to follow.**
41

42 **Nevins: Asks a series of questions and comments on the proposed**
43 **changes including incomplete sentence in 12.30.060 (3), 91st percentile flow**
44 **and volume calculations (12.20.020), treatment levels performance goals**
45 **(12.18.070, 080 & 090), defining significant adverse impact (12.18.040),**
46 **Intent of Title as it relates to 12.04.025(2)(D), and rephrase 12.04.025(1)(C).**
47

1 **Gustavson: Requests definitions for Pervious Surface and Low Impact**
2 **Development.**

3
4 **Tucker: Explains Strahler Stream Order as it pertains to section 12.18.090.**

5
6 **9:27:45**

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8 **G. For the Good of the Order: Chair Foritano**

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10 **Time of adjournment: 9:27:55**

11
12 **EXHIBITS**

- 13
14 **A. Silverdale Design Standards-Amendments to the Waaga Way Town Center Chapter**
15 **B. Waaga Way Town Center Design Standards-Sample Revisions from Public**
16 **Testimony**
17 **C. Kitsap County Code Title 17-Amendments to the Consolidated Use Table (Section**
18 **17.381.040 and .050**
19 **D. Silverdale III Conceptual Master Plan Map**
20 **E. Public Comment Email from Tex Lewis**
21 **F. Written Public Comment from Bill & Geri Mason**
22 **G. Public Comment Email from Edward and Susan Bird**
23 **H. Title 12 - Stormwater Drainage**
24 **I. Additional Changes to Title 12**

25
26
27
28 **MINUTES approved this _____ day of _____ 2009.**

29
30
31 _____
32 **Lou Foritano, Planning Commission Chair**

33 _____
34 **Karla Castillo, Planning Commission Secretary**

Addition of comments and requested per motion in the 4/7/2009 Planning Commission Meeting.

- A. Work Study - Kitsap County Code Title 12 Amendment - Stormwater Development Regulations; Dave Tucker, Assistant Director, Public Works/Jeff Rowe-Hornbaker, Assistant Director, DCD**

Taylor: I have a question on the third one down; that adds 2000 sqft or more of impervious surface. Where do we get this 2000 sqft?

Tucker: That's our definition of a small project. The small project has to do minimum criteria of 1-5. That seems to line up with what we consider to be a small project to be the trigger to do minimum requirement of number 5.

Taylor: How does that measure against the 5000 sqft impervious surface triggering?

Tucker: The 5000 inside the urbanized areas triggers 10 difference criteria.

Taylor: Doesn't this make it more difficult to go down to 2000?

Tucker: Without the 2000 any project that requires the first 5 minimum criterions would have to infiltrate on site to meet historic conditions. There are some places in the state permit related to road maintenance, in particular, that say that road maintenance activities have to do minimum conditions 1-5 as written by the state. **He gives examples.** We are not intending on that requiring you to go through and re-do the road and infiltrate all the water and expand the scope of the project. This is just putting trigger on it to make sure when one has to actually do the infiltration and when one does not.

Depee clarifies that he means repairs or upgrading.

Gustavson: I'm confused on this. The term, page 34 line....says "all projects". That's any kind of improvement, right? House, road, whatever

Tucker: Yes.

Depee: Or a shop in the rural area?

Tucker: There are couple things. One, these minimum criteria only apply if you need a permit trigger. So you first have to of a certain scope of a project before you get into the minimum criteria.

Depee: As to where you shop, I'd have to have a permit?

Gustavson: Anything over a temporary building requires a permit.

Tucker: Not under this code. Drainage permit is what I'm talking about.

Depee: *I'm trying to make sure I'm clear here. If I wanted to build a 2100 sqft shop, then only stuff like that triggers it?*

Paralez: *Isn't it land disturbing activity?*

Tucker: It's 2000 or more for impervious surface or 7000 or more for land disturbing activity. Those two define a small project. And small projects have to meet minimum criteria of 1-5.

Gustavson: *1-5 of what?*

Tucker: The minimum criteria in the code, which is section 12.18. Listed 1-10, large has to do all of them; small only has to do 1-5.

Gustavson: *I guess I'm trying to get a grip of what we are talking about. If I build 5 houses on 1 acre...well 4 houses on 1 acre is the minimum of what we can do in an urban growth area; low density. Every one of those parcels, because they are all 2000 sqft. of roof and hard-scape have to be self-infiltrated within their own lot lines. Because I am not building a large project, I'm just building these 4 houses, or 5 houses, or 9 houses or whatever?*

Tucker: The way the code is written, it's the entire project. So if you are doing a platting activity or land subdivision activity and you're also building the 5 houses; it's all seen as one; whatever the impact of the entire project is. So, in that case if you are doing 4 and they are about 2000 a piece it would be about 8000 sqft. You would be into the large definition if it was in the urban area.

Gustavson: *Our code for urban low is 4-9 houses per acre. Is this feasible? Can you self infiltrate, build a house, and put a driveway in. Can you physically do this and not create a swap that the house sinks into the ground?*

Depee: *I think you're talking a different product. To get 9 you're going to have to do all attached townhouses.*

Gustavson: *I'm not building all 9, I'm building my 1. The developer split into 9 lots, I bought one, and I'm building my own house.*

Tucker: The way the code currently is and the way the permitting process works is when the individual comes in to do the land subdivision, they have to provide for the future stormwater management for all the subsequent development of the

sties. In your case, there's and acres, that is divided into 6, 8, whatever lots it was, there would have to be a proposed plan as to how it would be built out and it would probably qualify as a large development and follow 1-10.

Gustavson continues to discuss infiltration issues with individual lots.

Discussion is held about the permitting and division of lots process.

It is discussed that the Public Hearing for the changes to Title 12 is scheduled for March 17, 2009 with deliberations to follow.

Nevins: Asks a series of questions and comments on the proposed changes including incomplete sentence in 12.30.060 (3), 91st percentile flow and volume calculations (12.20.020), treatment levels performance goals (12.18.070, 080 & 090), defining significant adverse impact (12.18.040), Intent of Title as it relates to 12.04.025(2)(D), and rephrase 12.04.025(1)(C).

Baglio: Refers to page 39 lines 29-33 (Other Types of re-Developments) *The portion on re-development they talk to other types of re-development. They talk about new and replaced impervious surfaces. And when they talk about the new and replaced impervious surfaces 5000 sqft or more, and then they also go into the value of proposed improvements including interior improvements exceed 50% of the assessed value. I guess the general question is how much latitude we have to change this document before the DOE is going to say no. And I was curious if you've had much feedback from people on that one. It certainly appears to me that on that one you could replace some impervious and not create 5000 new. You really could do very little minimal work; maybe put a second story on a building, increase the value on that significantly and have to go ahead and comply with all the requirement of this code, which seems a little bit ridiculous. Am I interpreting that incorrectly?*

Tucker: For clarity, the definition of "replaced" is for structures, the removal and replacement of any exterior impervious surfaces or foundation. Form impervious surfaces, removal of down to bare soil or base course and replacement.

Baglio: *In essence, if you came through and ended up modifying your parking lot and re-surfaced a portion of it and added a second story on your building. Would they review that even though you're not really creating any new impervious, but if you re-surfaced 5000 sqft or more. And re-surfacing what you have to do improvements to, have to take it down to the base course and re-pave. Is that what they mean by re-surfacing?*

Tucker: No, it's to differentiate between just re-surfacing something and going all the way down to the base course, which is a re-construction. So, re-construction for roads is very uncommon. I don't know about parking areas on private property. I assume it's not done very often either. It would be a case where it used to be a parking lot and now it's a building. That would be replaced impervious. It could be a case where if you took a building all the way down to the foundation and built it back up again, that could be replaced as well.

Baglio: *If you had an impervious area and you went ahead and put a building on it and did an addition of a second story on an existing, that would not be a replacement. But if you encroach into a parking area more than 5000 sqft, that would be called replacing that existing impervious, so that potentially would fall into that threshold?*

Depee: *Why is the evaluation of the assessed value even put in here when what we are after is storm drainage. I'm trying to get the correlation between what increasing the value of the property is vs. making sure you're addressing all the stormwater issues you're after.*

Tucker states that he assumes the DOE's intention is for a case such as if you have a Safeway and you were to go in and do a small thing like a latte stand in the parking lot. You wouldn't have to upgrade the entire Safeway because your impact to the total value is not 50%.

Discussion is held about the difference between valuation on the parcel and interior improvements. And on how much latitude they have in changing the language.

Baglio asks Jeff Rowe-Hornbaker if he adds a second story on his building is he going to have him up-grade his storm system to meet all the DOE requirements.

Rowe-Hornbaker: *I think if you look back in time on the language of where this evolved from. If a substantial amount of investment is being made in a property that you wouldn't ignore the impacts from stormwater as part of that investment. I think the language has shown up in other examples. And so what its say is that you are making a commitment to upgrading the building, you're doing a substantial amount of work there. At some point you need to make certain that that also addresses the stormwater impacts. Just as everyone accepts that you meet the current building standards, fire control standards, access standards, etc. They are placing that as another standard.*

Paralez: *I don't see where you either prohibit or allow the use of the stormwater system for de-watering, either permanent or temporary. Especially in cases of permanent de-watering where a building might need*

to install a permanent de-watering system into the stormwater system. Is that allowed?

Tucker requests and example of de-watering.

Paralez states that you are building a building that actually sits in ground water.

Tucker points out where it is addressed, on page 7, definition of Elicit Discharge, under series of exceptions.

Nevins expresses concern about the language requesting exception for “severe unexpected hardship”. He requests to exclude vague language.

Baglio expresses concern about developers not improving sites and building because of these standards.

***Nevins:** This code is not particularly what I consider severe. It is not going to solve the stormwater problem that we face around Puget Sound area. We are still going to be putting as much toxic material into the Sound as we presently do. If re-development standards meet this code and reduce the actual toxic material coming off this site. I would be in favor of it.*

Tucker addresses the language of severe economic hardship. There is a provision in the code that talks about the variance process. Located on page 2 of the document. It is a Type III, Hearing Examiner, decision.

***Foritano:** I assume that during that process the Hearing Examiner would weight the impact of the loss on that development against the intent of this; which is to protect Puget Sound. That would be that a judgment call would have to be made. Correct?*

Tucker: Yes, it outlines what the Hearing Examiner should consider.

***Foritano:** That’s really what that person is doing to the issues both of these fellows have raised. One saying in an earlier question is “where is the expression of the intent here”? We know by way of your presentation one of the major intents is to clean up the Sound. The other economic issue that we have is to developing or re-developing property. So if it gets to severe hardship, an adjudication process is going to have to weigh which is more important, visa vie that project. Correct?*

Tucker: It describes in the code what can be done in project if the variance is not granted.

Baglio: *Another item I have a question on is page 18, line 26-30. It talks about road maintenance practices and when the concern re-development and then non-exempt. This one talks about re-surfacing from dirt to gravel, asphalt or concrete, and upgrading from gravel to asphalt. There certainly is a potential here where in the past we've treated gravel as impervious. So, you had someone that constructed a house, they exceeded 5000 sqft. so they had to meet current regulations because their driveway was fairly long, they decided to pave it. They now have to go ahead, even though they met the regulations two years ago and put in a retention pond for a single family house. They have to meet all of the DOE requirements just because they decided to pave their gravel road. Is that correct?*

Tucker: That is not the intent, the intent is public roads.

Baglio: *So this isn't private, this is public?*

Tucker: Yes, the intent from the Ecology standpoint is public road maintenance.

Gustavson: Requests definitions for Pervious Surface and Low Impact Development.

Gustavson: *My next question comes to page 43 and refers back to definition number 53 on page 12. Illicit discharges, would that include herbicides sprayed into drainage ditches? Back on page 12, definition 53; "pollution generating pervious surfaces, any non-impervious surface subject to use of pesticides and fertilizers or loss of soil". Is it pesticide or herbicide?*

Tucker: Your first question, I believe is; "What is the definition of illicit discharge?" There's a definition in the...

Gustavson: *No, would the definition of illicit discharge include herbicides?*

Tucker: It would if they were part of a stormwater discharge. Yes.

Gustavson: *Is a roadside ditch intended to handle stormwater?*

Tucker: Yes.

Gustavson: *One would then, by extension, say that herbicides sprayed in roadside ditches are no longer allowed?*

Tucker: If they are applied outside a permit that allows it. Yes.

Gustavson: *You see where I'm leading? Every May, when it rains, we spray our roadside ditches with herbicides which drain directly into Puget*

Sound. And we do it specifically during the May rain when we have flow. It is specifically applied at that point. Would this document prohibit that?

Tucker: If it resulted in herbicides and pesticides being in the water, yes.

Gustavson: *It's specifically done when it is raining. That's the reason we do it in May.*

Tucker: The action is not prohibited; it's the outcome that's prohibited. If it's done in a way that doesn't result in the outcome, then it's not prohibited.

Gustavson: *That's kind of weasely wordy, I'd say. We specifically wait for the May rains, and then we apply it when there is water in the ditch and running. That's why we do it then, because it's most effective. So, are we prohibiting it?*

Tucker: You're asking me a theoretical question, I don't think that we...

Gustavson: *Maybe Mr. Rowe-Hornbaker can answer that one. Its one that gets under my craw every spring because I watch this go on. We worry about these little ephemeral streams across farmer Joe's back yard where there's a 140 ft. ridge buffer and setback and yet we spray roadside ditches with herbicides that go right to the bay and kill all the fish. It looks to me like we are not being consistent.*

Tucker: This code as it is written; if it were to result in herbicides being discharged, it's no allowable.

Gustavson: *Ok, so that process should stop, I should not see it in May this year. Is that correct? You work with Public Works, right?*

Tucker: Yes.

Gustavson: *And those guys are part of Public Works, right?*

Tucker: They could be, they could be with someone else if.....

Gustavson: *The answer is "yes", because I called them one time and that's where they claimed to work. Somehow could the message be delivered?*

Tucker: It's a more complicated process than that, but yes. But you're right; if it does result in herbicides being discharged it shouldn't be done.

Gustavson: *Subject to suit, apparently.*

Tucker: Yes, it is.

Gustavson: *Page 36, line 17- 32. It says “Basic treatment applies to project sites discharging directly to saltwaters, river segments, and lakes as listed”. But obviously to saltwaters, river segments and lakes require basic treatment. This goes back to the roadside ditch question. Are we intending that the roadside ditches be treated?*

Tucker: This talks about basic treatment for something that is being developed. So, if a road was being built and met the criteria while being expanded, the answer would be yes. If it's an existing structure, then no, this code doesn't talk about existing structure.

Gustavson: *So our little project up in Silverdale would have to comply, Silverdale Town Center.*

Tucker: Yes. Depending upon the types on land use it would be one of the water qualities, more than one of the water quality criteria.

Gustavson: I have another question up the page, line 10. What's a fourth Strahler Order Stream?

Tucker: *Explains Strahler Stream Order as it pertains to section 12.18.090.*