

MINUTES

**KITSAP COUNTY PLANNING COMMISSION  
Administration Building - Commissioner's Chambers  
March 17, 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.

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**The Kitsap County Planning Commission met on the above-stated date at the Kitsap County Administration Building – Commissioner's Chambers located at 619 Division Street, Port Orchard, WA 98366.**

Members present: Lou Foritano, Fred Depee, Linda Paralez, John Taylor, Tom Nevins, and Robert Baglio

Members absent: Mike Gustavson and Jim Sommerhauser

Staff present: Angie Silva, Larry Keeton, Dave Tucker, Doug Frick, David Lynam and Office Assistant II/ Planning Commission Secretary Karla Castillo

6:57:47

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

**B. Adoption of Agenda**

**Agenda is adopted as posted.**

**C. Public Comments**

**D. Approval of the February 24 and March 3, 2009 minutes**

**A motion is made by Commissioner Hough and seconded by Commissioner Taylor to approve the minutes of February 24, 2009.**

**The Vote:**

**Unanimous**

**The motion carries**

**A motion is made by Commissioner Paralez and seconded by Commissioner Taylor to approve the minutes of March 3, 2009.**

**The Vote:**

**Unanimous**

**The motion carries**

**E. Finding of Fact - Waaga Way Connector Roads & Town Center Design Standards: Angie Silva, Project Specialist**

***Silva presents the findings of fact and recommendations for the Waaga Way Town Center also, Title 17 consolidated use table and code augmentations.***

***Discussion is held on the findings of fact and recommendations.***

1 A motion is made by Commissioner Nevins and seconded by Commissioner  
2 Paralez to approve the findings of fact.

3  
4 The vote:

5 6 yes

6 1 no

7 The motion carries

8  
9 7:03:36

10  
11 F. Work Study – Existing Accessory Dwelling Unit Policy Update: David  
12 Lynam, Fire Marshal and Code Compliance Manager, DCD

13  
14 *Discussion is held on Accessory Dwelling Unit policy and recommendations the*  
15 *Planning Commission may have regarding Accessory Dwelling Units that are not*  
16 *permitted.*

17  
18 *Hough: Recommends stating what the problem is and identifying a process for*  
19 *people to deal with their non-permitted Accessory Dwelling Unit. Also,*  
20 *recommends a grace period be given to allow the owner to fix the problem.*

21  
22 *Lynam: Clarifies the recommendation that regardless of whether you caused the*  
23 *non-permitted Accessory Dwelling Unit or not, the current owner will need to deal*  
24 *with it.*

25  
26 *Taylor: Recommends a grace period that goes backwards. If an Accessory*  
27 *Dwelling Unit (ADU) has been there since 1962, leave them alone.*

28  
29 *Baglio and Depee both agree that some sort of amnesty period be given to people*  
30 *to come forward and fix the problem.*

31  
32 *Hough: Recommends there needs to be a plan to get the word out.*

33  
34 *Lynam: Would like any recommendation back to him in two weeks.*

35  
36 G. Public Hearing - Kitsap County Code Title 12 Amendment - Stormwater  
37 Development Regulations; Dave Tucker, Assistant Director, Public  
38 Works/Doug Frick, Development Engineering Manager, DCD

39  
40 Chair Foritano opens the public hearing.

41  
42 7:25:25

43  
44 Tucker gives and overview of the Stormwater PowerPoint presentation.

45  
46 *Discussion is held on what would happen if the revisions are not approved by*  
47 *August 15, 2009.*

48  
49  
50 7:48:08  
51

1  
2 **Osinski (Government Affairs Director with the Home Owners Association):** I was  
3 not going to speak and then decided I would. I am not going to get into the technicalities  
4 of this issue. This is a very complicated issue and we understand at the Home Builders  
5 Association where this is coming from and for what reasons its coming. I just wanted to  
6 express how much we appreciate Dave Tucker’s vigilance in keeping us informed of  
7 what he is working on, the process. He has given I don’t even know how many  
8 presentations to the home builders and various forums. I think you have really great  
9 support and great information that is very much respected by us coming from Dave. Of  
10 course we are concerned. Stormwater is an extremely expensive part of Land Use. We  
11 ask for any creative solutions to minimize the ultimate financial impact, obviously  
12 insuring however that the County is consistent with what is required. Thank you for  
13 having the Public Hearing.

14  
15 **Foritano:** *I assume you embrace Low Impact Development.*

16  
17 **Osinski:** Low Impact Development is something that the Home Builders Association,  
18 largely under the vision of Art Castle our Executive Vice President, has taken a leading  
19 edge on helping the community understand Low Impact Development opportunities it  
20 affords and with the NPDES and the new permit requirements. Those techniques are  
21 going to become very important. I would urge you in being cautious in mandating Low  
22 Impact Development. Not every scenario will LID techniques suit not every LID will work.  
23 You don’t want to be picking winners and losers as this begins to progress and people  
24 become more comfortable and engineers become more knowledgeable, you wouldn’t  
25 want to create a scenario where a new idea couldn’t be used because codes were  
26 written that only envisioned a certain set of criteria. Yes we do love Low Impact  
27 Development. We want to see it continue to be used in the County. Just be cautious  
28 about making mandates.

29  
30 7:55:27

31  
32 Break

33  
34 8:03:14

35  
36 Reconvene

37  
38 **H. Deliberation and Recommendations - Kitsap County Code Title 12**  
39 **Amendment - Stormwater Development Regulations; Dave Tucker,**  
40 **Assistant Director, Public Works/Jeff Rowe-Hornbaker, Assistant Director,**  
41 **DCD**

42  
43 ***Tucker addresses the Planning Commissions’ previous concerns and changes to***  
44 ***Title 12 that resulted from those concerns. He mentions Commissioner Nevins***  
45 ***question at the last meeting on performance measures for the water quality***  
46 ***sections of the code and informs the Commission he has included those***  
47 ***performance measures with their paperwork for them to consider adding as an***  
48 ***amendment to the code.***  
49

1 **Taylor expresses concern about Title 12.10.55 regarding permit duration. He**  
2 **believes the 180 day expiration should be changed to 360 days for expiration.**  
3

4 **Taylor:** *We just finished one on a project in Silverdale; by the time we got it*  
5 *done we were approaching the winter rains. The county stopped us. That takes*  
6 *up 6 months there. We've gone through 180 days already. I don't see what*  
7 *harm it does. The applicant has spent a lot of time and a lot of money getting to*  
8 *the point where he has a permit.*  
9

10 **Nevins:** *Clarifies that the permit expires if no activity is done on the permit for 180*  
11 *days, not that it is required to be done in 180 days.*  
12

13 **Taylor:** *Many times you go through 180 days waiting to start.*  
14

15 **Depee:** *I have found that staff works very well with me on extensions with issues*  
16 *like that.*  
17

18 **Baglio:** *I have several comments; first of all with reference to LIDs. We do need*  
19 *to keep in mind that LID is not a cure all that equalizes all of these new*  
20 *requirements and makes them all so they're the around as what its going to cost*  
21 *right now, because that's not the case. Dave made some reference last time to*  
22 *sites, if their soils are not conducive to infiltration, the additional costs we are*  
23 *looking at. I know some smaller sites, the 1 acre sites, which I think he said*  
24 *there is an over 1000% increase in the cost. Correct?*  
25

26 **Tucker:** *That's what the Department of Ecology's cost study indicated. Yes.*  
27

28 **Baglio:** *I question whether there's actually been an accurate and full impact look*  
29 *at this. What people need to keep in mind is the little 1 acre parcel, that's not*  
30 *some big developer that has big pockets. That's just a local businessman; a*  
31 *dentist, a lawyer, a state farm agent, someone small but is tired of leasing a*  
32 *piece of property and wants to go ahead and buy it and own it and have his own*  
33 *business. He's not going to be able to develop it anymore. The glaciers were*  
34 *not very good on the Olympic Peninsula; our soils are awful here. You have to*  
35 *be able to be able to infiltrate in order to utilize a lot of these LID practices. So*  
36 *just to gloss over why these requirements are all find and dandy because we*  
37 *have Low Impact Development is not going to answer all of these items. I want*  
38 *to make sure we take that into consideration. We are all in very dire times right*  
39 *now, and all of these things do tie together and to ignore this and just say its fine*  
40 *and dandy and not look at the full economic impact, I don't think is an improper*  
41 *justification to what we are looking at here. I don't know if there have been*  
42 *specific case studies in Kitsap and I don't know if anyone in the development*  
43 *community has looked at it and said; "Here we go, current regulations. Here we*  
44 *go, new regulations" and looked at a few case studies in the area. That would be*  
45 *an awfully interesting comparison to look at so we do know the full economic*  
46 *ramifications of what this means for different developments. I just hope we*  
47 *maybe take that into consideration.*  
48

49 **Foritano:** *Is Bremerton one of our working case studies?*  
50

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1 **Tucker:** Bremerton did some Low Impact Development project. I think what Robert is  
2 getting at is; if one cannot use LID what is the economic impact? The range which was  
3 given in that Ecology study, we looked at a series of road projects, which we had data  
4 on, our road projects generally came out in that same range. If you had to use only  
5 detention ponds, which most of the road projects did, you were looking at substantial  
6 increases to comply with the code.

7  
8 **Baglio:** *Right and I know that looking at a 3 acre site here that the soils were not*  
9 *conducive to it the storm detention on that was \$100,000 prior to this ordinance*  
10 *and a complete analysis has not been done to determine what's that going to be*  
11 *afterwards. We need to keep those things in mind and make sure we know what*  
12 *the impacts are.*

13  
14 **Nevins:** Not to argue with Robert on this point, because I think he has a valid  
15 point of view, But anytime we learn we must deal with our stormwater and put a  
16 more stringent set of guidelines or rules down that is going to make a difference.  
17 What it does, it tends to shift value from the property that is not permeable or  
18 infiltratable to the property that is. And so it's true, but the value now of a  
19 property that will infiltrate is going to increase as a result of these guidelines.  
20 Looking at it from a larger picture of the Puget Sound it's the direction to go.  
21 Even though there is going to be a shift in value.

22  
23 **8:13:05**

24  
25 **Hough:** Going back to the length of time, the 180 to 360. What's the downside  
26 is there a downside in extending it?

27  
28 **Tucker:** The language that is inserted is essentially what's in the building code now.  
29 The idea was to get everything on the same type of process. What currently happens is  
30 a permit, now, could end up lasting kind of forever. In some cases never picked up. So  
31 there's a one year threshold from when the department says; "Your permit's approved,  
32 please pick it up." It's good for a year. And then the 180 days is the exact same  
33 language that is in the building code. So if I'm building something I have to have  
34 progress on it once every 180 days to keep that permit going.

35  
36 **Paralez:** *To clarify is this paper that you handed out the proposed modified text;*  
37 *"if no action is taken within 180 days" then either the applicant has to take some*  
38 *action to reactivate the permit or request an extension. So it's not a dead deal,*  
39 *all you have to do is take some action. Request and extension or reactivate the*  
40 *permit otherwise the permit will be closed.*

41  
42 **Taylor:** *How long is the extension?*

43  
44 **Depee:** *6 months.*

45  
46 **Paralez:** *It doesn't say here. It doesn't seem all that onerous to me, all they are*  
47 *asking is that you show up and say you're still alive, still interested, something.*

48  
49 **Depee:** *I'm going to go with John to answer your question. It's easy to sit back*  
50 *and say those things, but if you are in process of trying to go in October,*

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1 *November and then you get a rainy season, there's nothing you can really do.*  
2 *Sometimes it goes longer than 6 months. In the real world it's a little different.*  
3

4 **Paralez:** *So what this requires is that you make a phone call. Is that true?*  
5

6 **Frick:** I can tell you that there are two things here. The first paragraph under 12.10.005  
7 deals with getting permits that are approved. Setting some guidelines for people so they  
8 don't sit in our drawers forever and ever, gathering dust. We are trying to get people to  
9 act on it, get it issued within a year, or if they can't, for economic conditions or whatever,  
10 go for an extension to put it off for another year, up to a year. We are going to write  
11 procedures into the Stormwater Design Manual that are going to flush this out a little  
12 more about how to get extensions. We could certainly add another extension. But  
13 again, right now, if somebody has an approved SDAP and doesn't act on it for 3 years  
14 I'm not surprise. We're not going to cut any of them off at this point. But the idea is to  
15 not have these things sitting around; the idea is that you move forward. The next one is  
16 about Issued permits. What that's really about is that once it's issued you've had a pre-  
17 construction meeting, and then we just want to make sure it keeps moving forward. If it  
18 gets to November, October and you need to stop for the rainy season, some people  
19 keep going through the winter and do level 2 inspections every week with erosion  
20 control. Others just cover it with straw and walk away all winter long and that's fine.  
21 That's and agreed up delay or pause. Another thing I want to do is have in our  
22 procedures a way to render a project inactive because of whatever constraints the  
23 developer faces. But the idea is to keep it moving. We have permits that are trying to  
24 clean right now that are 7 or 8 years old that we don't ever know if they started work.  
25

26 **A motion is made by Commissioner Taylor and seconded by Commissioner**  
27 **Paralez to approve Title 12 with the recommended changes to change the 180 day**  
28 **expiration to two one year extensions and all the 180 day references to 360 days.**  
29

30 **The vote:**

31  
32 **6 yes**

33 **1 no**

34 **Motion Carries.**  
35

36 *Clarification is made as to what the original motion was and what it included.*  
37

38 *Group is polled for understanding on the motion that was just approved.*

39 *Approval was based on everything except the performance goals.*  
40

41 **A motion is made by Commissioner Nevins and seconded by Commissioner**  
42 **Paralez to include the 4 performance goals for basic treatment, oil control**  
43 **treatment, phosphorus treatment and enhanced treatment.**  
44

45 **8:28:36**  
46

47 **Discussion is held between Commissioners regarding the complexity of the**  
48 **Performance Goals.**  
49

50 **The vote:**

51 **3 yes**

1 **4 no**

2 **The motion fails.**

3

4 **Tucker: *Points out some grammar edits in line 32-34 that the Commission might***  
5 ***want to vote on.***

6

7 **A motion is made by Commissioner Nevins and seconded by Commissioner**  
8 **Taylor to approve line 32-34 and line 19 corrections to the changes to Title 12.**

9

10 **The vote**

11 **Unanimous**

12 **The motion Carries.**

13

14 **I. Director's Update: Larry Keeton, Director, DCD**

15

16 **Keeton: *Updates the board on the current state of DCD.***

17

18 **J. For the Good of the Order: Chair Foritano**

19

20 ***Reminder about the April 1<sup>st</sup> deadline for getting material to Scott Diener for the***  
21 ***May 4<sup>th</sup> meeting with Board of County Commissioners.***

22

23 **A motion is made by Commissioner Taylor and seconded by Commissioner**  
24 **Paralez to adjourn the meeting.**

25

26 **The Vote:**

27 **Unanimous**

28 **The motion carries**

29

30 **Time of adjournment: 8:52:11**

31

32

33 **EXHIBITS**

34

35 **A. Accessory Swelling Unit-Requirement Summary**

36 **B. Executive Summary-Un-permitted ADU and Innocent Purchasers.**

37 **C. Proposed Changes to 3/3/09 Version of Title 12**

38 **D. Definitions Requested by Michael Gustavson**

39 **E. Appendix I-C Basic Treatment Receiving Waters**

40 **F. Waaga Way Town Center Design Standards and Title 17 Code Augmentations**

41 **G. Findings of Fact, Conclusions and Recommendations regarding the Waaga Way**

42 **Town Center Design Standards and Kitsap County Code Title 17 Consolidated Use**  
43 **Table**

44

45

46 **MINUTES approved this \_\_\_\_\_ day of \_\_\_\_\_ 2009.**

47

48

\_\_\_\_\_  
Lou Foritano, Planning Commission Chair

49

50

\_\_\_\_\_  
Mary Seals, Planning Commission Secretary

51

52