

MINUTES

**KITSAP COUNTY PLANNING COMMISSION
Administration Building - Commissioner's Chambers
September 15, 2009 6:00 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, Robert Baglio, Linda Paralez, John Taylor, Fred Depee, Jim Sommerhauser, Mike Gustavson, Michael Brown, Tom Nevins and Robert Baglio

Members absent:

Staff present: Peter Sullivan, Heather Adams, Scott Diener and Planning Commission Secretary Karla Castillo

6:00:42

A. Call Meeting to Order, Introductions

B. Adoption of Agenda

6:01:58

Diener goes over changes to the agenda.

C. Public Comments

D. Approval of the August 18, 2009 minutes.

A motion is made by Commissioner Nevins and seconded by Commissioner Taylor to approve the minutes of August 18, 2009.

The Vote:

Unanimous

The motion carries

E. Continuation of Public Hearing: RCO and RI zones and Policy RL-8: Katrina Knutson, Senior Planner, DCD (Est. 5 min)

Diener discusses the meeting held with the stakeholders regarding RCO and RI and it was decided at the August 27th meeting that the stakeholders will be drafting up some alternative ideas to the RCO and RI zone changes to present to the Planning Commission. Diener suggests continuing the Public Hearing on this subject until these alternatives have been heard.

6:06:52

Commissioner Paralez arrives.

6:11:20

1 *Discussion is held between Diener and Sommerhauser on clarification of the effects*
2 *RL-8 will have on the Site Specific Application. Sommerhauser requests that it is made*
3 *clear how RL-8 will affect the outcome of individual applications.*
4

5 **F. Continuation of Public Hearing: KCC Chapter 21.04 'Land Use and Development**
6 **Procedures' - Mediation and Appeals: Scott Diener, Manager Policy and**
7 **Planning, DCD**
8

9 *Diener goes over the changes that have been made to KCC Chapter 21.04 since the last*
10 *meeting. Diener discusses the urgency of this issue with the BOCC to make a decision.*
11

12 *Diener clarifies that any appeals filed to date would go through the old system and any*
13 *appeals filed after the code change would be put through the new system.*
14

15 *Diener estimates that in 2008 there were around 40 Hearing Examiner cases and to date*
16 *there is an estimated 20.*
17

18 *Discussion is held between Diener and Depee regarding the cost of mediation and*
19 *timeframes for mediation.*
20

21 *Paralez expresses concern of the cost to the department.*
22

23 6:26:10
24

25 **Public Hearing is opened**
26

27 **Teresa Osinsky-Government Affairs Director with the Home Builder Assoc.:** You have
28 heard my testimony before. I was here several weeks ago and I talked about our concerns
29 about how this change will affect the people who actually file the applications. Our position
30 has really not changed on that. I have not been able to review in any detail staffs effort to
31 address our concerns. We only just today received staffs position that is a little bit of a
32 concern to have to come here tonight and be prepared to tell you yes or no that every one of
33 our issues has been addressed. It is simply just not possible and it would be an error on my
34 part to suggest that I could do that. I did get a moment to read staffs paper before I left the
35 office. I was a little disheartened at the tone of it; the HBA has worked extremely hard for
36 many years to build positive relationships with all the jurisdictions we work with. Often times at
37 the frustrations of some of our members. We have really tried to build a reputation of being
38 open and communicative. Our desire to bring you a white paper was really driven in part by
39 the fact that over these months of trying to talk with staff about this issue. It became very clear
40 that staff had been given a directive that they had been told change the code. I have some
41 background as a staff person, I spent over 10 years with the State of Washington for a very
42 regulatory agency and I understand how those directives work. After repeated efforts of trying
43 to get some analysis from staff it became clear that maybe they were just not in the position to
44 provide that analysis. That they were being told x and to do any analysis might result in a
45 different result than x. So we contracted an attorney to do a white paper we didn't write the
46 paper ourselves because we wanted to make sure you were receiving a third party review of
47 what was being proposed and in her efforts to write that paper and in keeping with our general
48 philosophy. How we like to interact with the county and all jurisdictions. The paper was written
49 in a pros and cons sort of way. It was very disheartening to see staffs response to that. They
50 seem to have taken advantage of the fact that as you all know that when you make your own
51 pros and cons list that you often find a strength can be a weakness and in fact in the paper
52 you will find that this is the case. There are things that are called out as being potential
53 weaknesses in the paper that are also called out as also having some merit maybe with some

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1 different tweaks maybe with a different approach some of these things could be realized as
2 strengths. So unfortunately that caused me when reading the paper to take the same kind of
3 tact and right in the first paragraph, staff refers to a study that was conducted by the Municipal
4 research center, they call out a report done in 1999 called the use of Hearing Examiners in
5 City and Counties in Washington. So in my last 3 minutes in the office I printed that report out
6 and read it. So what staff says is that the report refers to the fact that using Hearing
7 Examiners will reduce your liability, will reduce the County Commission liabilities. We have
8 never argued that using the Hearing Examiner has been a positive approach for the County
9 and that is not the issue at hand here now. What staff doesn't tell you that on page 6 of that
10 report the MSRC also says that important decisions should be made by elected officials.
11 These concerns can be addressed by making the Hearing Examiners decision a
12 recommendation to the Council or Commission or by providing an administrative appeal to
13 that legislative body. What happens when you get into this kind of back and forth it gives
14 people the opportunity to be short in their response, not maybe genuine and not fully
15 disclosing the issues at hand. The HBA from the moment this started months ago has had to
16 continually bring to you the evidence, the policy issues and the concerns regarding this matter
17 in an open and honest and forthcoming way and we want to continue to do this.
18

19 ***Depee asks Osinsky if she is aware of where this directive has come from?***
20

21 **Osinsky:** It has been told to me that it has come directly from the BOCC. We have had
22 individual conversations with 2 of the 3 Commissioners so I cant say for all of them but I do
23 know that Commissioner Bauer has made it clear to us repeatedly that this is something that
24 he feels is prudent and good public policy and he feels strongly about that. We just disagree.
25

26 ***Paralez: Are you familiar with jurisdictions where mediation works and the criteria or***
27 ***the circumstances under which mediation does work in those cases?***
28

29 **Osinsky:** I have not had the opportunity to do a lot of detailed research on where mediation is
30 employed or not employed. Many months ago, staff maybe even to this body but certainly in a
31 work study with the Commissioners refers to King County. I have since researched King
32 County all be it very briefly and unfortunately found not only does King County still sit in
33 Hearings on closed record appeals which staff had said they don't. They do have language
34 about mediation but it's my understanding it is not utilized. So that's the only example of that I
35 have done any research on and I was not able to support Staffs recommendation on that.
36

37 ***Discussion is held on the two year review of this code.***
38

39 ***Paralez: If a mediator were involved in an issue who either knew nothing at all about***
40 ***growth management or knew nothing at all about the building industry. Can you***
41 ***imagine that mediation would be successful?***
42

43 **Osinsky:** No, I can not. I think when you come to issues as specific as Land Use very specific
44 it the same way it concerns the BOCC and how their hands are often tied when the hear a
45 closed record appeal. It is the very essence of how code driven land use that makes it
46 imperative that any mediator be knowledgeable about their own restrictions because certainly
47 people can get together and promise all sorts of things to each other but that doesn't mean its
48 going to carry water in the long run. So if you are going to make the investment to do that you
49 best hope you have a mediator that is knowledgeable in the subject.
50

51 ***Baglio and Osinsky discuss King County and if they still sit on closed Hearing appeals.***
52

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1 **Jennifer Forbes-McGavick Graves:** I have to start by saying I didn't have more than 10
2 minutes reviewing the staff report and I certainly have more than 5 minutes of comments to
3 respond to some of the points made in the staff report. Without having had an opportunity to
4 see it for more than 10 or 15 minutes before having to leave for this meeting, I haven't even
5 prepared written responses which I normally would use to supplement my oral comments.
6 That is one of the issues I am going to express to you as the Planning Commission that you
7 are not going to at least orally receive a full response to some of the staff reports responses to
8 my White Paper. I think there are some things in there that bare further comment and I am
9 going to probably miss a few because having had to piece this together at the last minute its
10 kind of hard to try to figure out where they are, what they changes are, what is different and
11 what the comments are and to put them all together in a coherent manner for you is
12 somewhat difficult and I am going to do the best I can. I am going to ask that the Commission
13 is willing to indulge the opportunity to provide written comment. I understand the intent is to
14 move forward to vote today but it's my belief that the public hasn't had the opportunity to fully
15 respond to this report. There are certainly several things to my White Paper. I would like to
16 start as my duty as representing the HBA in this case I was asked to look at this from an
17 objective perspective. I am a lawyer who practices Land Use and I have been on the
18 Government side, in fact I am currently Assistant Attorney for one of the local jurisdiction, I
19 represent private individuals, developers, neighbors and I have even represented this County.
20 What I am trying to do in this White Paper is to give a different perspective and give some
21 other analysis and view points. This is not an argument to just argue this isn't an advocacy
22 position this is just trying to express some legitimate public concerns. Unfortunately, staff
23 points out in their staff report there is no analysis or no support for some of the conclusions
24 reached in the White Paper but I had to work with what I was given and staff did not give me
25 any factual basis or analysis to allow me to do the analysis myself. One of my issues and
26 concerns is that there is nothing that I have been provided that shows the actual analysis of
27 what the costs are. For example taking the Commissioners out of the appeal process in terms
28 of what exactly the cost savings would be. I put a foot notice to what I could come up with in
29 terms of the number of appeals that has been brought to Superior Court but it is my
30 experience that most cases are not brought to Superior Court. By taking the BOCC out of the
31 process you are leaving people with no alternative but to go to Superior Court. I think that can
32 not be discounted. Staff throws numbers out without any support themselves. I might add in
33 their responsive staff report that its going to cost staff more and the County more, but they
34 provide absolutely no detail no support just some assumption of their own. They are the ones
35 that have the information and data and you would expect them to be the ones to provide the
36 information to you. I have asked the question and the answer that they provided in my opinion
37 is very conclusinary and not very helpful. I think that in terms of how exactly this is going to
38 help the developer; I think that taking out the BOCC there is certainly pros and cons to that. I
39 think I tried to address that. The issue from my perspective for this White Paper is what is the
40 cost going to be. I think that bares further analysis. In terms of mediation I could probably talk
41 for another half an hour, if given the opportunity. I think almost any lawyer that you talk to will
42 say that mediation is a great thing if it works. You have to have both skilled mediators to
43 actually do the work and I can tell you as a lawyer who practices Land Use, there are many
44 lawyers out there who do not practice land use and do not know what they are doing; and
45 unfortunately when they go into the court room and attempt to practice land use, with all do
46 respect, in some cases they practice mal practice. I think that is a serious issue in this case.
47 The overall and over arching concern of the HBA as expressed in my white paper is the delay
48 and the cost that this process will include. The staff themselves has acknowledged it could
49 take up to 4 months in addition to the time. This 14 to 21 days is the time for the mediation to
50 occur not the time to build up to it. I did want to make one more legal point I think in terms of
51 the staff report, in regard to RCW 7.75.080, which staff points out is a tolling provision for

1 mediation. I want to specifically point out that the tolling provision only applies to DRC
2 mediations it does not apply to private mediations, so it would only affect a mediation that
3 goes through a Department of Dispute Resolution Center, so if the parties opt for alternatives
4 it does not apply by its own definition. Second, it's a tolling provision of the Statute of
5 Limitations not of appeal periods and for most lawyers I view as two different things, the
6 Statue of Limitations is defined under Chapter 414 RCW that deals with filing claims for
7 lawsuits and how much time say you are assaulted that you have and opportunity to file a
8 claim. It is not used as term and understood as a term that applies to appeal time periods and
9 third, if you read the section it specifically tolls during a very narrow period of time referred to
10 in another section of that statute that applies it starts the moment they sign up the agreement
11 to do mediation and stops once the mediation agreement is signed so the tolling provision
12 doesn't stop everything doesn't end everything. It is very narrowly tailored under the statute. I
13 am not sure that it would apply to appeal periods.

14
15 **6:44:34**

16
17 **Nevins:** *Questions on how this is going to increase the time versus and appeal that*
18 *goes to the BOCC?*
19

20 **Forbes:** There are different types of mediation proposed. Staff themselves has said that
21 mediation is going to add 4 months to the process. Mediation only saves time if we pre
22 suppose that it is going to be successful. I don't think it will be successful in most cases unless
23 you have a very small discreet group of people and very small discreet issues. I think that in
24 most cases when you have a volume of neighbors there is absolutely no way mediation is
25 going to work. In the cases when its just the county and applicant mediation might work,
26 except for the staff is only suppose to be asking them to follow the code and mediation can
27 not be used to avoid code provisions. So, there is really no point in mediation. It's those in
28 between cases where you have a very small issue and very discreet issue that is not code
29 driven. Then you deal with the fact that you have mediators that don't know what they are
30 doing. So, it is a waste of time unless you have trained mediators. With all do respect to the
31 concept of a mediator being a mediator being a mediator. I have been through mediation as a
32 lawyer and I have been through several different hearings as a Land Use lawyer I think I have
33 some experience to draw on and having dealt with a mediator that knew nothing about Land
34 Use and had to deal with a land use issue that was tangential to an underline law suit. It was
35 extremely frustrating because I could not get him to direct the other side to what the legal
36 issues are and mediation is suppose to help people focus on what is important in a case.
37

38
39
40 **6:47:08**

41
42 **Depee and Forbes discusses when she received the staff report. Forbes states she**
43 **never actually received the Staff Report she checked online before she left.**
44

45 **Gustavson and Forbes discuss the costs of appeals and what the timeframes could be.**
46

47 **Sommerhauser points out that the Dispute Resolution Center has agreed to send their**
48 **mediators to the Basic Planning Course. Sommerhauser also questions if Forbes has**
49 **any suggestions on how to improve the program.**
50

51 **Forbes:** With some respect to the short course on Planning, I have also taken that course and
52 I don't think I learned in that what I needed to know to be a Land Use lawyer. I think mediators
53 are generally lawyers for the most part. I use lawyers when I use a mediator because I trust

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1 that they have some experience in the legal issues. I think that's one of the solutions that I
2 propose in my memo is that they should have a mediation list of qualified Land Use lawyers
3 that are available, like the County does for the courts system. When you go through Superior
4 Court to do mediation they have a list of mediators available to assist. Dispute Resolution
5 Center is great for family law. I have no doubt that they are very well qualified and they also
6 do well with some small personal injury matters, I think they are very well qualified and I don't
7 mean to disrespect them in anyway. I truly believe that Land Use issues are more complex
8 than what they are use to in terms of the norm and for those individuals to get themselves up
9 to speed sufficient to do a job that will actually end up being successful and save people
10 money. I think is somewhat optimistic in terms of how much time they are going to spend on it,
11 if you were spending 40 cases a year working on it. They are not necessarily going to see that
12 volume enough to get themselves up to spend to qualify themselves in any short order. I
13 personally do not want to put my client through the time and expense of that. I don't want to
14 be the guinea pig for their training time. My experience with untrained mediators has been
15 very poor. I know there are good mediator that can help people meet middle grounds but
16 people have to understand what the law requires in order to assist people to meet a resolution
17 because if people come in with unrealistic expectations and I think you would probably agree
18 that they can not reach an agreement because they can not move off of their unrealistic
19 expectation.
20

21 6:55:20
22

23 **Ron Ross-Resident:** I don't feel that the system we have in place is broken. I think the
24 consideration of change is made because it is a difficult decision for the Commissioners to
25 make. I would be quite opposed to seeing a change in that. I have been developing in the
26 County for quite awhile. I go before the Planning Commission often and in front of the
27 Commissioners, more often than not I as the applicant become the appellant appealing the
28 decisions that the County has made and to have that decision and part of why I want to make
29 that comment to the County Commissioners is so they are aware of conditions that staff is
30 imposing on me as a developer that is not in the regulations. To require me to put up a fence
31 because the neighbor wants it, if the neighbor wants a fence the neighbor should put up the
32 fence it's on the line. I should not be mandated to do a lot of things that the staff would like it
33 best if I do. One of them is a playground in a subdivision. I had a staff planner that said no you
34 don't need a playground and then she left to go to the City of Bremerton as a planner, the new
35 planner comes in and says no you have to have a playground for the children but its not in the
36 regulations, I know its not in the regulations but that's what we want. It's that type of decision
37 that I have appealed. I would not want to go to mediation and talk to somebody who knows
38 very little about the regulations to make the decision. The other thing that I think is very
39 detrimental and I think a lot of issues, I don't think I have ever been appealed by a citizen
40 group related to one of my sub divisions, I think it has always been me appealing the County.
41 In the other issues where I see that the communities do get involved who is going to speak to
42 the mediator for the community. The community is a whole bunch of people and they will send
43 out notice and the community club comes in and there will be six or eight of them that get up
44 and speak but who is going to be the one or is each one of them going to speak in front of the
45 mediator. I don't know how that process will work but I can imagine the community when they
46 get into resolving it and mediation is sort of split the blanket down the middle here but
47 someone in the community feels they weren't represented. He is still going to be out their
48 beefing about it and it is still going to end up in court. It is very detrimental from my point of
49 view to be changing the system when there isn't a more compelling reason to do it.
50

1 **Sommerhauser clarifies what the role of a mediator is versus an arbitrator. Discusses**
2 **how a mediator does not make a decision but helps the two parties come to an**
3 **agreement.**
4

5 **Ross:** I can believe there will be no decisions reached in the mediation process because how
6 do you split the I don't want the fence and he wants the fence. They want a six foot tall
7 obscuring fence. Is the mediator going to suggest lets put a three foot tall fence up?
8

9 **Sommerhauser asks Ross his opinion on how many Hearing the Commissioners have**
10 **heard that are brought forward by citizens or citizens groups that are based on a**
11 **misunderstanding of what they can get under the law.**
12

13 **Ross states he would not have an opinion.**
14

15 **Depee asks Ross how he feels mediation will help when a planner put a condition in**
16 **that is not code but is a preference.**
17

18 **Ross:** I see myself as it would fit me. Who is going to represent the County in mediation when
19 I as an applicant for a project want to appeal a Counties decision. Am I going to go to
20 mediation with the County Prosecutor or is it going to be a staff person that comes over there
21 or will a Commissioner come over. Who speaks for Kitsap County?
22

23 **Depee repeats his question to Ross.**
24

25 **Ross:** I was required to put in a two car garage with every house and that not part of the code
26 that is part of the building code. It specifically states that parking is not part of the Land
27 Development Code and it will be taken care of with the building permit, but they did require a
28 staff level and the Hearing Examiner did require a two car garage with every house. That is
29 unheard of that is illegal and I want to be able to appeal that and make my Commissioner
30 aware of what staff is doing.
31

32 **Mark Eisses-MAP, LTD:** I strongly want to urge you not to let the BOCC out of the decision
33 making process. MAP, Ltd. has been in business for over 30 years we have never had a case
34 that we can remember go to Superior Court after the BOCC appeal. You are going to hurt
35 both the little guy and the developer because when you start talking Superior Court cost of 20,
36 40 or 50 thousand dollars what community is going to appeal a project when you get to that
37 dollar amount. So it's not just the developer side it's also your community side that are
38 appealing the project the other direction. I just wanted to make the hard decision and I would
39 just a soon it be the BOCC the local people not some judge somewhere.
40

41 **Gustavson asks Eisses if he finds that it is mostly the developers who are appealing**
42 **the Counties decisions.**
43

44 **Eisses states it has gone through its changes from community groups to developers.**
45

46 **Theresa Osinsky-HBA:** Comes back up to answer a question from Commissioner
47 Sommerhauser earlier and gives data. First of all it is going to be essential that staff be
48 directed to create a baseline of data about what our reality is today. I don't know what that
49 timeline is maybe its back to 2006 I don't know, but they have to know from where they start. It
50 is going to be really important that they be directed to capture that data. With regard to how
51 many hearings, how many applications come in, how many of those applications are appealed
52 and which type I, II, or III; how many of those ones that have gone to the Hearing Examiners
53 are appealed to the BOCC, those that went to the BOCC how many of those went back to the
54 Hearing Examiners. After those processes were done how many then went on to Superior

1 Court or the Shoreline Management Hearings Board. So, all that current data has to be
2 captured. Moving from that though I would say they need to be monitoring how much time
3 each one of these mediation stops are put in place. How much actual time is eroded through
4 that process. I would also go on to say that they need to have a detailed outcome of each
5 mediation that does take place. So if you have mediation multiple times throughout a process,
6 what is the detailed result of that? Not necessary information that can't be shared but just was
7 it affective, ineffective, how many people were involved, was there a citizen group involved
8 how did the citizens group get their one person to represent them. You will remember from a
9 recent hearing you had involving a sub area plan in the Greater Hansville area you had a
10 citizen come here and tell you he was not represented. Now it wasn't about mediation it wasn't
11 about an application but I certainly heard him and he was quite clear that he was not
12 represented. Don't fool yourselves that you are going to avoid that under a Land Use
13 application process. I would also say that there needs to be a full accounting of the cost
14 associated with County paid mediation. There is a little bit of a shell game going on here. Staff
15 will talk about the cost to file an appeal and that maybe they will just forgive that cost and
16 apply that cost to mediation. Somewhere along the line we just lost 500.00 dollars. I know you
17 are aware that DCD operates on a very tight budget and much of what they do now is being
18 paid directly by those that apply to use DCD. I am very concerned about any suggestion that
19 money just gets massaged around and disappears. There needs to be a full accounting of the
20 cost. I would go on to say that an assessment or survey of all applicants on the cost and
21 benefits on having had that mediation process included. Talk to the client how did it work, how
22 did the applicant feel, how did the appellants feel, how did the parties involved in that process
23 feel as a result of that. Finally I would say there needs to be a complete tracking of how many
24 cases either proceeded to the BOCC or would go on to court as a result of the change.
25

26 **7:09:08**

27
28 **Public Hearing is closed**

29
30 ***Sommerhauser asks Diener to confirm that at a minimum the person representing the***
31 ***County during mediation would be the Supervisor for Planning.***

32
33 ***Diener confirms that this is true and that this is the plan that it will be the Manager of***
34 ***the Division from where the appeal originates from.***

35
36 ***Sommerhauser questions Diener about developers being asked to do things on***
37 ***projects just because a Planner thinks it will look good and if this practice will decrease***
38 ***if the County has to pay money for mediation because of that type of I like.***

39
40 ***Diener comments that the practice of planners asking for things that they think would***
41 ***be nice for a project versus what is required in code has substantially diminished in the***
42 ***last couple of years.***

43
44 ***Depee and Diener discuss the lack of notification that was given to the HBA and***
45 ***Jennifer Forbes. Diener states that his only requirement is to respond to the Planning***
46 ***Commission.***

47
48 ***Paralez questions Diener on his statement that a mediator that is unskilled in the***
49 ***intricacies in Land Use planning would be an impediment to imposing inappropriate***
50 ***Land Use Conditions during mediation.***

51

1 *Diener states that perhaps if a Planner sees an opportunity for something that is not*
2 *required in code could be engaged in before going to the Hearing Examiner, they*
3 *perhaps will think twice before doing that.*
4

5 *Diener and Paralez discuss how an unskilled mediator would be able to know what is in*
6 *code.*
7

8 *Depee and Diener discuss the urgency on the subject and Depee would like to know*
9 *why there is such an urgency.*
10

11 *Depee feels that this has not been refined enough to be put into an ordinance at this*
12 *time.*
13

14 *Baglio points out that this is actually two issues. Mediation is one issue and the*
15 *removal of the Commissioners is a separate issue. He believes that questions and*
16 *concerns brought up about mediation are valid points. Also, he believes the BOCC*
17 *should stay within the process if they are the ones ruling on Land Use regulations they*
18 *need to know the impacts of those regulations that they have made.*

19 *A motion is made by Commissioner Sommerhauser and seconded by Commissioner*
20 *Taylor to approve the mediation sections of the proposed change as presented from*
21 *staff with the requirement that the two year review include the data points suggested*
22 *by Ms. Osinski.*
23

24 *Gustavson: I would note that during the Public Hearing not a single person has come*
25 *to speak in favor of the mediation process and I would certainly feel obligated to vote*
26 *against it.*
27

28 *Nevins: I would speak in favor of a mediation process. The one thing the mediation*
29 *process will allow is the individual public to have real access to the Commissioners on*
30 *an issue. Presently they are barred from having any conversations with anyone who*
31 *might be involved and I have a feeling they might become more informed about what is*
32 *going on. So I would be in favor of mediation.*
33

34 *Depee: I would be against it for the exact same reason. What good is for them to be*
35 *informed of it if they have no input on it.*
36

37 *Sommerhauser: Two things I would say. One, I have observed at a number of*
38 *meetings as well as discussions with the individual Commissioners where people will*
39 *come to the Commissioner with questions, appeals, request for assistance, the*
40 *standard answer that I hear from the Commissioners is because we may be the*
41 *appellant authority on this we can not get involved. The ex-parte communication on*
42 *something I may have to rule on prevents me from getting involved.*
43

44 *Baglio: Mediation is going to just add another step to the Land Use process it is not*
45 *going to speed anything up, it's going to slow it down and cost everybody more money.*
46

47 *Taylor: Based on all the testimony we have heard not just tonight, this is not best for*
48 *the citizens or the Land Use people. So I am going to vote against it.*
49

50 **The vote:**

51 **2 yes**

52 **7 no**

53 **The motion fails**
54

1 A motion is made by Commissioner Gustavson and seconded by Taylor that the
2 Planning Commission recommends to the Board of County Commissioners that the
3 current procedure in place be continued.
4

5 **Gustavson:** The issue of cost have been brought up, we currently have a permission
6 to bill of cost in this County of 135,000 dollars this will drive it to well over 150,000
7 dollars just for paperwork to build a single family residence.
8

9 **The vote:**

10 **7 yes**

11 **2 no**

12 **The motion carries**
13
14

15 **7:29:41**

16 **Break**

17 **Reconvene**

18 **7:40:19**
19

20 **G. Work Study: Removal of Mineral Resource Overlay Designation from: Cutting**
21 **Edge Grounds & Lawn Care: Scott Diener, Manager Policy and Planning, DCD**
22

23 *Diener gives a brief overview of the proposed project. The work study will be continued*
24 *to the October 6th, 2009 Planning Commission meeting. More details will be discussed*
25 *at the October 6th meeting.*
26

27 *Discussion about whether the site has ever been mined.*
28

29 *Diener discusses that the applicant is waiting to apply until he can get the Mineral*
30 *Resource Overlay removed from the property. He is waiting for the Planning*
31 *Commission to make a recommendation. Staff would suggest that you make a*
32 *recommendation removing the Mineral Resource Overlay from the property, subject to*
33 *meeting all the requirements.*
34
35

36 **H. Public Hearing: Removal of Mineral Resource Overlay Designation from: Cutting**
37 **Edge Grounds & Lawn Care: Scott Diener, Manager Policy and Planning, DCD**
38

39 **7:48:18**
40

41 **Public Hearing is Open**
42

43 **7:49:01**
44

45 **Public Hearing is continued to October 6th**
46

47 **7:49:01**
48

49 **I. Work Study: Addition of Mineral Resource Overlay Designation to: Ueland Tree**
50 **Farm Mineral Resource Development: Scott Diener, Manager Policy and**
51 **Planning, DCD**
52

53 *Sullivan goes over the proposed site development and also goes over again that this*
54 *will be a brief work study and it will be continued to the October 6th, 2009 meeting.*
55

1 *Depee questions the appeal that is on the Environmental Impact statement and if this is*
2 *going to effect the final decision.*
3

4 **J. Public Hearing: Addition of Mineral Resource Overlay Designation to: Ueland**
5 **Tree Farm Mineral Resource Development: Scott Diener, Manager Policy and**
6 **Planning, DCD**
7

8
9 7:55:45

10 **Public Hearing is Open**
11

12 **Bob Tucker-Resident:** I am speaking on behalf of concerned citizens of Chico Creek Water
13 Basin who have come together to submit an appeal with regard to the Ueland tree farm
14 Mineral Resource Development Program. In addition to that we find that we are looking at a
15 mineral resources zoning change covering that area I guess in parallel with the appeal that is
16 in process right now. In regards to that appeal the organization feels that it's inappropriate at
17 this time to consider a change to the subject property until after the appeal process has run its
18 course. The reason being is this is quite an involved project it will greatly impact the
19 surrounding community as well as the ecological community which consists of Chico creek
20 which is the largest Chum Salmon producing stream in Kitsap County. We have people very
21 interested in the health environmentally of this property and our way of speaking to this I do
22 feel as I said its kind of jumping the gun a little prior to finding out if we can even do the project
23 or not. It has come to my attention that apparently the Commissioners have not been made
24 privy to the letter that was submitted to Larry Keeton the director dated the 14th. With your
25 permission I will read that letter. **Tucker reads letter and gives copy for the record.**
26

27 **Rick Uhinck-Resident:** I live on David Road, I have lived there for 25 years, and my
28 grandparents have lived in this house. This is going to be a little emotional and not quite as
29 professional as Bob spoke. We have seen the flooding in the last 8 years. Every bridge in that
30 area has been washed out by flooding. We have also seen the development of the Blakely
31 property on the west side of Kitsap Lake they went in and cleared it. I worked for Kitsap
32 County Public Works and I have seen and had to go in a repair the damage from the flooding
33 coming from Blakely alone. This area is so sensitive with the salmon and everything else. I
34 urge you as a concerned citizen to look hard at this development. I think, being in these
35 mineral pits all the time I see the damage that goes on and in this area it is just so sensitive.
36 Also, the traffic flow that they want to dump 186 truck a day on to N Lakeway which is already
37 difficult to get on during the day. The safety issues with school children, I think this will all be
38 addressed eventually. I am not a great speaker but emotionally I don't see it being a good
39 thing for this area. There are three different creeks that all tie in to the bay. Environmentally
40 we have already seen the damage from the Port Blakely clearing. We can't even cut down a
41 tree on our property and they can go and clear all this land.
42

43 **Barbara Hromjak-Resident:** Here is what I have to say about this. Ok, when you buy a piece
44 of property you come into a neighborhood you look around you say what is around me. I'm
45 going to buy this house because this where I want to be, I can be around the animals the
46 piece and quiet and then all of a sudden five years into living in the community and you have
47 upkeep your home and you have been a good citizen all of a sudden someone comes in with
48 deep pockets and they say lets put a gravel pit here and I can make a lot of money doing that.
49 Let's not have any consideration for the people who have to listen to the equipment. The
50 people didn't buy that. If you want to put in a gravel pit fine go find someplace that is already
51 zoned, but don't come into a community where people have spent their money their lives and
52 time have bought in good faith that they are going to be surrounded in a certain way because

1 that is the way it was when they bought it and then all of a sudden you are going to change
2 the rules because somebody thinks hey I can make a lot o money in this spot. You know
3 what? Go find a Commercial spot put it somewhere else. Don't put it in the middle of a
4 neighborhood because you are going to have all of those trucks rumbling through this
5 neighborhoods that is not a pleasant thing, the dirt, the danger these trucks are carrying
6 54,000 pounds. That's a lot of weight and now you are going to put them in the middle of a
7 residential community. You have that much money and you want to do this project go find an
8 appropriate industrial area where you are not going to have to deal with these issues. Fine
9 you are not going to make as much money the first 5 years that's on you.

10
11 8:06:21

12
13 **Public Hearing continued until October 6th**

14
15
16 **K. Work Study II of II: Site Specific Comprehensive Plan Amendments: Pete**
17 **Sullivan, Associate Planner, and Heather Adams, Associate Planner, DCD**

18
19 **L. Public Hearing II of II: Site Specific Comprehensive Plan Amendments: Pete**
20 **Sullivan, Associate Planner, and Heather Adams, Associate Planner, DCD**

21
22 *Sullivan gives a brief overview of the 9/1/09 last meeting.*

23
24 *Discussion is held about RCO, RI, Policy RL 8 and how this is affecting certain Site*
25 *Specifics.*

26
27 **McCormick Land Company Site Specific Application**

28
29 *Sullivan reviews the McCormick Land Company Site Specific Application. Staff*
30 *recommends denial.*

31
32 *Sullivan reviews McCormick Land Company and Alpine Evergreen Site Specific*
33 *Application. Staff recommends denial.*

34
35 **Foritano opens the Public Hearing for McCormick Land Company and Alpine Evergreen**
36 **Company.**

37
38 8:37:32

39
40 **Doug Skrobut-McCormick Land Company: Gives out handout regarding 2006**

41 **Comprehensive plan. Skrobut references map on overhead projector.** The area we are
42 talking about is right in here. Here is the McCormick Woods Urban Growth Area it is right
43 adjacent to the SKIA property that is now part of the City of Bremerton. It is roughly a mile to
44 the rural urban area. This is a holdover and the two applications both of them are pocket
45 zoning. We have a lot of other rural areas. I came forth with two, I talked to Alpine because
46 they are neighbors of ours and both of them are areas that since the last comp plan, pockets
47 zonings are islands of zoning that have been created. In the Staff Report, there are a lot of
48 inconsistencies in the Staff Report. So for instance just to try to go through it and not beat it to
49 death. On page 8 it says the proposal is of such a scale that development would not be
50 consistent with rural character as defined by the Comprehensive Plan. If you look at page 15
51 section i it says that it is consistent. On page 8 it talks about not being consistent with LU-2
52 which is a 76/24 split. It talks about policy RL-1 nowhere does it talk about policy RL-3. Policy
53 RL-3 talks about permit residential uses in rural areas consistent with existing in plan rule
54 character of the surrounding area. Well this area is 5 acre zoning all the way around it butted

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1 up against industrial zone, butted up against park land, so its one of those areas. There are
2 some 130 policies I think in this thing there are going to be times when policies conflict and I
3 think this is one of those times. Where RL-3 I believe my interpretation is we want to have
4 wide zoning in wide places. LU-2 says well we don't want to encourage growth, we'll
5 encourage growth in the Urban areas. To the point of the extent if these 2005 building land
6 capacity analysis some 15,000 lots in the rural areas, 14 additional lots in this area that less
7 that 1/10th of 1%. So, in the Staff Report it states it materially effects the caring capacity, I
8 don't know about you all but 1/10th of 1% on a theoretical caring capacity is not material. Also,
9 in the staff report is talks about sprawl 5 acre zoning constituting sprawl, if that's the if that is
10 truly the case how did our Comp plan ever get through the Hearings Board because its 5 acre
11 zoning everywhere. If that's the case and our new definition of sprawl is 5 acre zoning were
12 redoing this Comp Plan folks, completely and utterly. So I just find this Staff Report, perhaps it
13 was done on a template, everybody down here is overworked. I just don't see how with the
14 inconsistencies in it and the extent that we are asking for and I do agree for you and the board
15 there is a policy that says encourage growth in urban areas versus a policy of rural lands and
16 like zonings. I will say that I believe the County is making great strides meeting the goals of
17 LU-2 and that this request if granted will not frustrate that effort. I have a summary that I will
18 hand in as well. Since 2005 the ratio has been to 2007 buildable lands report almost 90% of
19 the new lots created 2000-2005 were in Urban areas. That is an incredible turnaround now
20 with our history of lots and Legacy lots. Were not going to turn this cruise ship overnight but
21 we are making a difference. Come out to the county all the sub area planning we went through
22 for 10 years for McCormick Woods area. Drive out there now you will see how much of the
23 growth is being captured in urban area. The addition in this instance of 14 lots is not sprawl by
24 definition. The definition that counts is not staffs, it's the Hearings Boards and the Growth
25 Management Act 5 acre lots are not sprawl. That is my brief summary on that as well
26 particularly towards **(refers to overhead projector)** this is existing I always find it made it
27 easier to see the existing zoning versus what the proposed is you can see the even there is
28 100 acres now that's in r-20 and 10 or its been divided up into a rural short plat. I didn't ask to
29 bring that 10 in because it wasn't our property I don't want to speak for them. I just asked for
30 the change for us. I would think that if this change was granted the whole thing would go and
31 be made consistent since those lots are already developed out at ½ acre lots. One of things I
32 would like to point out in the Staff Report is there is an allegations there that the wells may
33 affect ground water and I strongly request that the staff report either be validated and sited or
34 stricken and reissued. I know this is an extreme but what's to keep staff from saying that this
35 proposal will keep the sun from rising in the east. With that type of action going on it just
36 amazes me that the staff report can come out and make allegations with no factual siding. The
37 same types of facts apply for the wicks lake, I don't have quite as good as map there, Ryan
38 who will speak after me for Alpine has some better maps. Since the last comp plan the county
39 has acquired roughly 170 acres some from McCormick and some from Alpine for the Wicks
40 Lake Park. You will notice it has created a pocket zoning of **(unintelligible)** it's a much larger
41 parcel this is 90 acres that's somewhere around 270 acres but it's the same facts. Pocket
42 zoning of 20 acre lots surrounded by 5 acre lots. I will point out the staff report also says that
43 are zoning doesn't allow for Forest Lands and those types of things. The current zoning does
44 not either, it's not forest land. Talk about the bloodbath of RL-8 I'm sure everyone here
45 remembers the bloodbath of what forest lands were or were not. We went through that as a
46 community we decided where they were and what constituted long term forest land and those
47 were designated in 40 acre zonings centered permanently in Central Kitsap there. They are
48 not forest lands; the current zoning does not protect them. It gives the same amount of
49 protection as the proposal would be.
50
51

8:46:36

1
2 **Ryan Sandstrom-General Manager Alpine Evergreen:** Doug said quite a mouthful and
3 reiterated many of the things I would say. However, the map he was discussing I would like to
4 correct because there was one that came up on the computer earlier and I've printed one off
5 from the Counties current zoning map. (Refers to overhead projector) What you can see is
6 Wicks Lake in the yellow piece there and the purple which was originally rural wooded which
7 is part of the purchased 170 acres by Kitsap County Parks purchased since the
8 comprehensive plan was done. You know with the first couple of questions this application
9 asks you is, has anything changed and that is what I would like to address the most. There
10 have been a couple of changes, this park purchase piece that we are talking about that
11 isolates that. There just was an oversight in this area. You get to what the County has termed
12 Legacy Lots and you can see on this map that there are many parcels that are smaller than 5
13 acres. The Alpine Evergreen parcel which is the pan handle piece which is shown as one
14 parcel but it truly is 3 if you go back to the deeds and it was done back in the 60's, I believe
15 just to ease the tax collection when everything was done more on paper. Companies like
16 Alpine Evergreen that have many parcels, it was to just streamline the process and the one
17 parcel number was assigned to many. I can understand that this has made some confusion,
18 which was another oversight in this. So, in this proposed area here you know you have
19 McCormick south of us and above and you've got nonconforming lots within the middle, two
20 tens and a twenty in the middle but its not an actual twenty it's a nominal deal or excuse me
21 actually less. It's just another inconsistency that you can see on this map here. There is the
22 large parcel from the Camp Fire girls property which ended up being zoned 1 per 5 acre
23 zoning. Which is just down on Lake Helena Road NW. This is an area that there is a lot of
24 traffic. I am out there all the time operating the tree farm for Alpine Evergreen. There are many
25 lots out there and the homes are not going away. This is an area that I believe it is inevitable
26 that it is going to continue to be this way especially as SKIA develops there is going to be
27 more pressure for different corridors of traffic. All of the as Doug said the urban resources and
28 the traffic transportation requirements they are there to do it. You know there was comment I
29 came across from one of the citizens regarding the wells. This is a nice area and a lot of those
30 wells are shallow and these days they are going to be 150 feet deep and if there is going to be
31 any issues the Department of Ecology is going to step in and address that and if anything
32 were ever to happen as far as down the road and any subdivision process.
33

34 **Raymond Baker-Resident:** I own 10 acres of property that is on the southeast corner of this
35 proposed 270 acre development. My well is at 65 feet and I have another piece of property
36 adjacent to that and the well is at 61 feet. Many of the neighbors in this area their wells are all
37 less than 75 feet at the maximum. So we are all very concerned that if there is anything that
38 gets changed from 20 acre sites to 5 acre sites that there is going to be dramatic change in
39 our well or water pressure in that area. There is nobody addressing that and this is kind of a
40 major thing. I am kind of representing several of the neighbors that expand out from that area.
41 I was contacted from them, there was several neighbors that said they were not in that area
42 but I could be affected by this somewhere down the line because my well is also at 60 feet
43 range, 150 feet is not the wells in that area. I have seen numerous bear, fox and owls just tons
44 of animals in this area. I have lived there for 30 years, so I know there is going to be a
45 dramatic change if someday there is a housing development that goes into that area. Those
46 animals have nowhere to go and the will suddenly be in my yard or my neighbors' yards.
47 Anyway, I just can't see this thing being a good deal with no easements or anything that is
48 being listed right now. We have no idea what's going to be the future of these, whether its
49 going to be 1 lot, 2 lots or 50 lots there is just not enough information for any of the neighbors
50 to feel comfortable with this proposal.
51

52 **Depee questions Mr. Baker on what size parcel he has.**

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1
2 **Richard Williams-Resident:** I live at 11130 Wicks Lake Rd SW, I have lived there since 1988
3 I have two 4.77 acres with two homes on them. I know I have my five acres and everybody
4 feels like they should have the same thing but times change and things change. I just want to
5 give you a picture of where I live; I took care of Wicks Lake for about 12 years for the county
6 I'm intimately involved, I have a business at my home so I am home all the time. Last
7 Wednesday we had bear scat in our driveway we have black bear, at night we hear coyotes
8 roaming the woods searching out rabbits and so forth to feed themselves and to feed their
9 young. At night you can hear owls, we have chipmunks and squirrels and animals of all sorts
10 running all over the place all of the time. Wicks Lake has runoff that keeps the water, it's
11 probably and I would bet money it is the cleanest water in Kitsap County I swear we don't
12 even have swimmers itch there. Its less than 20 acres of water but its pristine and beautiful.
13 The traffic has increased throughout the years, I moved out here because I wanted to be in
14 the country, I wanted to be kind of away from people, I wanted to live in a rural natural area
15 and I've got it and I don't want to see it change. I have already seen what happens Alpine
16 Evergreen had 20 acres next door to my property and they broke it up into 5 acre parcels and
17 then they went in and clear cut it and then they sold it. So now I have no buffer from north
18 winds on my trees because I have made great efforts to keep my area pristine for animals and
19 for nature. I know that's what these guys are going to do they are going to go in there and get
20 their designation then they are going to clear cut the area to nothing and its going to cause
21 drainage problems, its going to cause problems with the well water, I don't care what they say
22 you know you can make the arguments all day long but people who live out there who actually
23 live this and experience it they know what they are speaking of. So I implore you keep it at 20
24 acres if they want to put a house on 20 acres at least the decimation of the property will be a
25 lot less . The number of people, cars, traffic, wells and septic systems will be a lot less. I know
26 all the roads that they put in are going to be gravel roads they are not going to be asphalt they
27 are not going to be nice ones. They are not going to bring in new services, policemen,
28 firemen, emergency vehicles are going to have a greater area to patrol and take care of.
29 Services that the County has to provide are going to have higher costs there is a lot to
30 consider here. I thank Pete for the work that he has been doing. I am pretty emotional over
31 this because this is my home and I am not going to move and I am not going to standby. I
32 know that these people have a right to do something with their land. I believe that property
33 rights should be respected but they have 20 acre parcels they should stay that way.
34

35 **Betty Child-Resident:** I live out off Glenwood and Lake Helena Road so this affects me. I
36 would like to know when this is going to be implemented and I would like to know the long
37 term plan here. I have received such sketchy details or none what so ever even though I
38 requested it in writing. That the only reason I remembered this meeting was because I wrote it
39 down on my calendar. My neighbors have touched on what is going to happen to our roads
40 and our woodlands. My well is only 75 feet deep and many of us out there are retired or are
41 thinking about retiring and are on somewhat fixed incomes. How will we measure up if we are
42 up against million dollar homes for taxes? I have lived there since 1993 and about 9 years ago
43 I went to McCormick Woods office and asked if I could buy the 5 acres behind me so I could
44 not have that cut down for building and they said absolutely not. So it comes to my mind that
45 they had some sort of plan in place at that time and that was like 8 or 9 years ago. I would just
46 like some clarification on if this is going to be implemented, when it will be. Lets look at our
47 economy folks there are lots of homes that are standing vacant in Kitsap County right now. I
48 can't see until this thing would turn around the economy is tanked why we would want to build
49 more houses that would probably stand vacant.
50

51 **Rod Reed-President of Alpine Evergreen Company:** I am hoping to retire. I wasn't going to
52 speak but I felt I just had to I have lived growth management from the time I started working

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1 with the company to know. Let's talk about why those were put in and how they became 20
2 acre tracts to begin with. The one thing that the County did, it went out and looked at where
3 the designated forest land was that was the taxing, that was part of taxing that was the current
4 use taxation that forest land owner could use in order to make a living without paying higher
5 taxes. That's what they used for most of the dark green that you see in the County today.
6 When they went out to find the long term commercially viable timber there wasn't any in the
7 South end at all. None what so ever very poor timber some of us are still trying to eek out a
8 living having to do with that. Let's look at what those things became and now that the park is
9 there and it has made a true island, what is left now probably should be made into 5 acre
10 tracts. Alpine Evergreen has no intentions of immediately dividing these up into 5 acre tracts
11 that's not our intentions, maybe sometime in the future we will do that. We have to have our
12 options open. We have to follow the same rules as everyone else. We can't violate somebody
13 else's well, we can't destroy any wetlands. The people should give us a little more faith. I hope
14 you will look at this as truly what it is and that's an island and it's something that needs to be
15 fixed.

16
17 ***Sommerhauser and Reed discuss the noticing that was given back when the***
18 ***comprehensive plan was being done.***

19
20 9:04:58

21
22 **Foritano closes the Public Hearing for both McCormick Land Company applications**
23 **and Alpine Evergreen Company application.**

24
25 **Sullivan continues with the next Site Specific Application.**

26
27 **Sullivan reviews the Seabeck Developers Site Specific Application. Staffs**
28 **recommendation is inconclusive.**

29
30 9:08:59

31
32 **Foritano Opens the Public Hearing for Seabeck Developers**

33
34 9:09:10

35
36 **Foritano closes the Public Hearing for Seabeck Developers**

37
38 **Sullivan continues with the next Site Specific.**

39
40 **Sullivan reviews the Palmer/Stokes/Campbell Site Specific Application. Staffs**
41 **recommendation is inconclusive.**

42
43 **Sullivan reviews the Palmer/Stokes/Mullenix Properties Site Specific Application. Staffs**
44 **recommendation is**

45
46 9:17:37

47
48 **Foritano Opens the Public Hearing for both Palmer/Stokes/Campbell Site Specific**
49 **application and Palmer/Stokes/Mullenix properties Site Specific Application.**

50
51 **William Palmer- Land Use Consultant:** I am here representing both applications and the
52 property owners are both present and they will wish to add additional comments following
53 mine. I have a little bit of a problem with how these site specifics are proceeding. When we
54 met with staff back in January and early February to discuss how these site specific proposals
55 would be crafted. We talk about as one issue amending policy RL-8 so that industrial

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1 development could be expanded and commercial development could occur in an expanded
2 fashion in rural areas. Somewhere a long the line a decision was made that we weren't really
3 going to touch Policy RL-8, weren't even going to try and change it and then in May we had
4 surface from staff two new zones Rural Commercial and Rural Industrial and we foiled that
5 one at your August 11th public hearing and then subsequent to the August Public Hearing
6 there was a stakeholders meeting and combined with the DCD policy permit advisory
7 committee we worked out a four point program for how to address the issue of Policy RL-8
8 and development within rural areas pertinent to industrial commercial. One of the things I
9 would like to get on record tonight is the State Supreme Court has issued several decision in
10 recent months and last couple of years indicating that local jurisdiction such as Kitsap County
11 have difference in their ability to plan for their own jurisdiction in other words even though
12 there are Hearing Board decisions which establish bright line decisions about what is
13 constitutes what is rural and what is urban. The State Supreme Court has said those bright
14 line decisions that the Hearings Board has made are they don't have the jurisdiction to
15 establish bright lines that can only be done by the courts. Basically that puts it back on Kitsap
16 County to define what constitutes rural and to do so in the context of Kitsap Counties historic
17 developed condition and to me from looking at it from a Planners stand point it was a very
18 simple thing to address the policy RL-8 and take that forward and then we wouldn't be looking
19 at inconclusive staff reports we would have the ability to consider such things tonight instead
20 of now having to continue it because now we are going to be waiting for a report from the
21 DCD Policy Advisory Committee as to how to change our existing commercial and industrial
22 zones as pertinent to rural areas. Well somewhere along the line this process got messy and it
23 didn't need to be in my opinion. I think you have two viable applications here and if it were not
24 the current wording of Policy RL-8 would be going forward with a positive recommendation
25 from staff. I have a couple of comments to make relative to this specific proposal (refers to
26 overhead projector). This is the Stokes/Campbell application and as Pete Sullivan pointed out
27 the Commercial designation was altered recently to go back to the particular property
28 boundaries so we wouldn't really have that as a confusing issue at the moment. An earlier
29 graphic that Pete put on the board indicates that in the western portion of the site you have
30 Burley Creek and there is corresponding buffer requirements to go along with Burley Creek so
31 that limits the usability of some of the Industrial area and in hiatus period as we consider what
32 is going to be appropriate for rural areas we may choose to look at a different approach for
33 Commercial versus Industrial on this piece. I can explain more later and I will submit written
34 comments on or about October 6th. The proposal on the south side of the road Mullenix is a
35 little bit different one of the graphics Mr. Sullivan showed which is an aerial photograph is
36 down under the T in sight is existing area that has been historically used and we are trying to
37 clean up some of that area and the expansion for the industrial is to do that plus is to take into
38 consideration places where we are considering septic drainage and stormwater detention to
39 go along with that approved site. Up at the north there is parcel 002 which is in this location
40 right here, basically part of its shown as Industrial and part of its shown as HTC. The Industrial
41 zone now as it reads allows some commercial use as the proposed rural industrial that took
42 away that commercial use we would want an opportunity to take another look at that as it
43 comes back to you in October depending on the report you get from the DCD Policy Advisory
44 Committee.

45
46 **Jean Sherrard:** I have the one parcel that you saw that was industrial, which was a concrete
47 batch plant that the (**unintelligible**) people did back in the 40's that Fred Hill Materials has
48 had a batch plant on for a number of years until a few years ago. We just sold one of the
49 pieces that we subdivided by condo minimization of the property and that was our old repair
50 shop, Fred Hills repair shop its being used now and has been used consistently as that. This
51 has been an Industrial site as I say for, forever in this county before zoning was. What has

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1 happened with RL-8 is that somebody is changing some definitions as I told somebody in a
2 situation where you couldn't understand what was going on somebody started speaking
3 German when we were talking Italian and all of sudden everything has changed. Well that's
4 what has happened with RL-8 and that is what I wanted to address. When I and I have gone
5 through this growth management zoning from all the way through and what we got was a
6 statement that the County promised us that Industrial Zoning would not be considered rural.
7 The wording was decided Industrial zoning that they forget the wrong phrase there. Industrial
8 zoning will be treated the same regardless of where it is. Now what is happening is they are
9 trying to take that away from us with out rezoning. They are using RL-8 and it was never, this
10 is deception this is changing definitions of words we worked with to go through the whole
11 process of the rezone in 2006 and now all of a sudden I'm coming up against RL-8 and its like
12 Alice in Wonderland I cant get a hold of the Cheshire Cat because they are changing the
13 definition on me. I'm speaking Italian and all of sudden they are speaking German and
14 expecting me to convert my language. Well lets stay with the same stuff, this is dishonest this
15 is these guys want to make us rural they are not from here they haven't been in the County
16 they don't know it, I've been here 45 years and all the Planners I don't even know many of
17 them anymore I cant even address them I don't even know their names and their changing the
18 zoning here because rural is important and they are changing the zoning without changing the
19 zoning. They tried to do 45 changes in industrial and call it rural and then stick me with it, no
20 hearing, no nothing their just going to do it. Now we've got new kinds of industrial zoning they
21 are changing the terms they are doing what they can to stop us from using property that we
22 have used historically and in away we want to continue to use it. Well you got my point.
23

24 **Jeff Stokes:** My family owns 10 parcels and we moved into the Stokes auction acres in 1975.
25 I was one of those young kids that hauled the sand out with five gallon buckets many years
26 ago to build the lower floor to build the auction company. I understand Mr. Sherrard's
27 frustrations, I don't understand the policies you folks go through so I am humble learning to
28 this process. This is the first time ever my family or I stood before you to try to get any type of
29 zoning considerations or changes. Among those 34 years we further more have with all those
30 parcels it's very rural and very protected and the Stokes family has always worked hard to
31 keep our places clean and to be a proud part of our community. When the community came to
32 us and asked us to fence off the creeks to protect the critters from the animals getting in there
33 to dirty up the streams we were the first in line to fence off those creeks. I have a 20 acre
34 parcel that is entirely fenced off to protect those creeks. I believe in protecting Burley Creek.
35 Furthermore, when the State came in and needed land to cut in that freeway on ramp we were
36 first in line to make an agreement and not create a battle. Mr. Sherrard is frustrated as I don't
37 know if I am quite as frustrated because I follow his leads and Mr. Palmers leads but both of
38 them spoke with that same kind of feeling that we have, I have personally been in the process
39 for three years I've been working with Scott Diener and all of them patiently through phone
40 calls and addressing them in a proper fashion waiting for our turn. This property we are asking
41 for proposed change on I believe fits into our plan and anyone in that area I hope would agree
42 with that. This stalling is further creates financial challenges on my own part and I hope you
43 know that the Stokes family will treat that corner right we will treat this property well you will
44 always it will always be well maintained we are very proud to part of the Kitsap community and
45 we will be here for a long time. I hope you would please consider moving this project along
46 because we have been sitting patiently for some three plus years. Thank you.
47

48 **Barbara Hromjak-Resident:** I live adjacent to this property. **(Refers to overhead points out**
49 **her property)** That is my log home that I waited 50 years to buy in a wooded area with
50 animals. I relocated here from Ohio. When we bought that property I did diligent. People who
51 know me know that I am pretty diligent. I did my homework and I said ok Dave, my husband if

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1 we buy this house there is no zoning that is going to cause us to lose our trees. Well, now
2 these folks back here they bought their property and they bought it as Industrial property and
3 that's what it is. I don't have any problem I have nothing I can say to them about that stuff that
4 is already zoned that way. Go at it do what you need to do but to change that parcel of land
5 and allow them to take down all of those trees. We have a breeding pair of Great Horned Owls
6 they are there every year I see their fledges every year. I mean how much of a footprint do
7 you need to make. You've got your Industrial area do what you can with that, don't change the
8 other stuff. I mean as much as they have a right to use their Industrial property because that's
9 what it was zoned when they bought it. I have a right to keep my woods. That's what I knew I
10 was buying that's what I knew I was getting into and that's what I expect. I'm just one person
11 one little family out here in the woods in a little log house but I have rights to and I hope you
12 consider my rights as well. Thank you.
13

14 **Sommerhauser and Hromjak discuss where her access is.**
15

16 **Dave Hromjak:** That was my wife Barb speaking. I got to say also that being zoned Industrial
17 the way that it is was in the past Condos, I mean Condos is a multi unit times how many and
18 then you figure all that septic waste and then a retention pond, I guess talking about a
19 retention pond back in this area here (refers to map on projector) and this area back behind us
20 is low lying to begin with and then you have the Bethel Burley Creek running over toward the
21 other side and I just cant picture (**counts to 11, pointing out areas for septics**) plus the
22 retention ponds I mean once that gets wet you've got the methane gases like when you drive
23 by McCormick Woods you get that smell there. Plus that's an embankment off of Hwy 16
24 which comes down and will sort of funnel that and will make it worse. I just defiantly overkill
25 there, those big Cedars there are buffer for Hwy 16.
26

27 **Depee:** *So you are not opposed to any of the projects except that one large parcel to*
28 *the west?*
29

30 **Hromjak:** Yes
31

32 **Sommerhauser questions Palmer on if there is a known intent for the property yet?**
33

34 **Palmer:** There are no specific proposed uses for the site on the north side although we would
35 envision that a type of use that caters to convenient freeway off ramp access could go there.
36 On the south side the proposal for HTC again we would take advantage of the Highway
37 interchange.
38

39 **Craig Campbell:** I'm one of the proponents of this. I just have a couple of things. We applied
40 for this about a year ago and we would like to get on with it. It is a freeway interchange
41 normally you see this kind of development in freeway interchanges. I've owned the property
42 with the creek on for 20 years now and I am a fisherman and I believe in taking care of the
43 creek and we will have to with all the development regulations that we will have to deal with.
44

45 9:43:04
46

47 **Foritano closes the Public Hearing on both the Palmer/Stokes/Campbell Site Specific**
48 **Application and the Palmer/Stokes/Mullenix properties Site Specific Application**
49

50 **Adams reviews the Gilman Site Specific Application. Staff recommends approval.**
51

52 9:45:33
53

54 **Foritano opens the Public Hearing for the Gilman Site Specific application.**

1
2 **Foritano closes the Public Hearing for the Gilman Site Specific Application**

3
4 **Adams continues with the next Site Specific Application.**

5
6 **Adams reviews the Sison/Bowley Site Specific Application. Staff recommends**
7 **approval.**

8
9 9:49:02

10
11 **Foritano opens the Public Hearing for the Sison/Bowley Site Specific application.**

12
13 9:49:12

14
15 **Foritano closes the Public Hearing for the Sison/Bowley Site Specific Application**

16
17 **Adams continues with the next Site Specific Application.**

18
19 **Adams reviews the Brown Site Specific Application. Staff recommends approval.**

20
21 9:51:51

22
23 **Foritano opens the Public Hearing for the Brown Site Specific application.**

24
25 **Cheryl Clark-Resident:** I live at 4251 Tracyton Beach Road NW. The back of their property
26 backs up to the back of my property. This has been quite an education for me this evening.
27 My family has told me that there is nothing I can do or nothing I can say but I wanted to come
28 and learn and I've learned a lot. One, I've learned about the wetland delineation which I
29 couldn't find online I tried to find that information. I was concerned about what was going to be
30 done with the property and now that I have learned that it is most likely going to be a single
31 dwelling. I had concerns about not coming here at all and what if after the fact so I have
32 learned that this is a very wonderful avenue of information which surprises me, I'm sorry but it
33 does surprise me. I have learned a lot this evening. When you say the property is vacant, it
34 isn't there are numerous deer, coyotes, fox and with what they have said about the wetland
35 delineation I'm really happy that that much of the property has been designated that. I have
36 2.6 acres and I can only use a half acre because the rest is wetland. I have notice that another
37 neighbor has tried to cleverly backfill into the wetland which we reported so I am sure that is
38 not going to happen in this area. My one other question I have is do we know what is the
39 access going to be for this home is it going to be off of Naomi or Riddell?
40

41 **Adams confirms that she believes it will be off of Naomi road.**

42
43 **Mike Wnek-Civil Engineer:** Brief point I would like to make. Answering the previous question
44 the only legal access is off of Naomi it is our only choice of access. It currently is a public right
45 of way it is a platted right of way off of Tracyton Blvd. The one point I really wanted to make
46 was when you open up the Staff Report and look at the critical areas map and the building
47 limitations map is you wont see any building limitations on the Counties maps and its rather
48 surprising with such a large wetland area and she alluded to it being on her property as well,
49 exists back there that was never delineated, never seen from aerial photos or from however
50 else that they figure out where all of these wetlands are at. Since the property has been
51 purchased there is obviously wetland so the owners went ahead and had the report done to
52 figure out where it was and basically most of the east part of that parcel will be retained as
53 open space. I just wanted to make that point that there is a very significant wetland that does
54 not show up on any maps.
55

1 9:55:56
2

3 **Foritano closes the Public Hearing for the Brown Site Specific Application.**
4

5 9:57:19

6 **Break**

7 10:03:43

8 **Reconvene**
9

10 **M. Deliberations / Recommendations: Greater Hansville Community Plan: Pete**
11 **Sullivan, Associate Planner, DCD**
12

13 10:08:31
14

15 ***Chair Foritano ask Vice Chair Baglio to act as Chair during the deliberations and***
16 ***recommendations of the Greater Hansville Community Plan.***
17

18 ***Sullivan gives a briefing of the Hansville Community Plan to the Planning Commission***
19 ***and addresses some of the concerns that have been brought up by opposing parties.***
20 ***Sullivan states that the staffs' recommendation is to approve the Community Plan.***
21

22 **A motion is made by Commissioner Paralez and is seconded by Commissioner Taylor**
23 **to approve the 8/6/09 version of the Hansville Community Plan as written.**
24

25 ***Paralez believes the Planning Commission has had considerable opportunity to view***
26 ***this plan and believes this is step one of many steps to come.***
27

28 ***Depee thanks staff for their efforts on the Community Plan.***
29

30 ***Gustavson states he has asked each speaker and staff to define the problem they are***
31 ***intending to solve and he is told each time that there is no issue. Gustavson does not***
32 ***believe that Community Plans have a place in County Planning and that the tax payers***
33 ***of the County should not have to take on the financial burden of these plans.***
34

35 ***Sommerhauser responds to Gustavson's statement regarding being told that there is***
36 ***no issue from staff and speakers. Sommerhauser believes this is a good start and this***
37 ***is exactly what Community Plans are all about.***
38

39 ***Taylor voices concern over building height in non residential areas.***
40

41 ***Discussion is held between Taylor and Sullivan regarding when the subject of height***
42 ***will come into the plan.***
43

44 ***Foritano thanks staff for their efforts that have been put into creating this Community***
45 ***Plan and getting the Planning Commission to this point where they can deal with a***
46 ***motion. Foritano addresses Gustavson's question from earlier regarding the question***
47 ***of why the need of a Community Plan. Foritano reads the first paragraph of the Staff***
48 ***Report.***
49

50 ***Gustavson expresses concern regarding about the current parcels being grandfathered***
51 ***in under this Community Plan without any type of height limitations to the buildings.***
52 ***Gustavson points out the Manchester Plan and how there are now building exceeding***
53 ***the height limitations because they were grandfathered in.***
54

1 A motion is made by Commissioner Taylor and seconded by Commissioner Depee to
2 make an amendment to the motion that no building height is to exceed 28 feet.
3

4 *Clarification is made by Sullivan regarding the Manchester Plan and how new zones*
5 *were created for that area.*
6

7 The vote:

8 4 yes

9 5 no

10 The motion fails
11

12 Original motion
13

14 A motion is made by Commissioner Paralez and seconded by Commissioner Taylor to
15 approve the 8/6/09 version of the Hansville Community Plan as written.
16

17 The vote

18 8 yes

19 1 no

20 The motion carries
21

22 N. For the Good of the Order: Chair Foritano
23

24 Discussion on clarification on the 6 PM starts time of the next meeting.
25

26 Depee states that he contacted the service center for GMA and talked to the Planners
27 and they are willing to come to any meeting that we want.
28

29 Meeting adjourn 10:29:15
30

31 EXHIBITS
32

- 33 A. Supplemental statement from Theresa Osinski
- 34 B. Kitsap County Proposed Changes Chapter 21.04 KCC, White Paper by Jennifer A.
35 Forbes, Attorney
- 36 C. Memorandum from Scott to Planning Commission regarding White Paper
- 37 D. Ordinance amending portion of KCC chapter 21.04
- 38 E. Chart outlining proposed changes by McGavick Graves Attorneys at Law
- 39 F. Executive Summary- Mineral Resource Overlay
- 40 G. Letter submitted by Bob Tucker from Linda Laine
- 41 H. 2009 Site Specific Comprehensive Plan Amendments/ Re-zones list
- 42 I. Letters dated 10/18/06 and 11/2/06 signed by Doug Skrobot regarding 2006
43 Comprehensive Plan
- 44 J. Applicant response to Staff Report for McCormick Land Company (Sunnyslope
45 Location)
- 46 K. Applicant response to Staff Report for McCormick Land Company / Alpine Evergreen
47 Company.
- 48 L. Written response from Ryan W. Sandstrom regarding McCormick Land Company /
49 Alpine Evergreen Company Staff Report.
- 50 M. Staff Report: Site Specific Application for: McCormick Land Company
- 51 N. Staff Report: Site Specific Application for: McCormick Land Company/ Alpine
52 Evergreen Company.
- 53 O. Staff Report: Site Specific Application for: Seabeck Developers
- 54 P. Staff Report: Site Specific Application for: Stokes/Campbell
- 55 Q. Staff Report: Site Specific Application for: Sison/Bowley

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- R. Staff Report: Site Specific Application for: Gilman
- S. Staff Report: Site Specific Application for: Brown
- T. GHAAC Letter to the Planning Commission dated September 1, 2009

MINUTES approved this _____ day of _____ 2009.

Lou Foritano, Planning Commission Chair

Karla Castillo, Planning Commission Secretary