MINUTES
KITSAP COUNTY PLANNING COMMISSION
Administration Building – Commissioners Chambers
August 15, 2011 3:30 pm

These minutes are intended to provide a summary of meeting decisions and, except for motions made, should not be relied upon for specific statements from individuals at the meeting. If the reader would like to hear specific discussion, they should visit Kitsap County’s Website at http://www.kitsapgov.com/dcd/pc/default.htm and listen to the audio file (to assist in locating information, time-stamps are provided below)

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

Members present: Mike Brown, Linda Rowe, Karanne Gonzalez-Harless, Tom Nevins, Lou Foritano, Linda Paralez, Carol Smiley, Jim Sommerhauser and Robert Baglio

Members absent: 

Staff present: Larry Keeton, Scott Diener, Heather Adams, Jeff Smith, Candy Mursell, Jim Barnard and Planning Commission Secretary Karen Ashcraft

3:29:07

A. Call Meeting to Order, Introductions

B. Adoption of Agenda: A Motion is made by Commissioner Sommerhauser and seconded by Commissioner Rowe to adopt the agenda.

The Vote:
Unanimous
The Motion carried

C. Public Comments

3:30:27

D. Briefing: Shoreline Master Plan and Draft Mapping, David Greetham, Senior Planner, DCD

- Primary topics for briefing: Draft Goals & Policies and Shoreline Mapping Exercise
- Currently in middle of SMP Phase 3: drafting regulations
- Task Force Work Group Meetings scheduled to discuss Bulkheads, Piers, Docks, Buffers & Setbacks
- Draft of General Goals & Policies Future Chapter of Shoreline Master Plan: The document has been reviewed by Task Force, Staff and Legal Department. Currently on Web Site for further public comment.
- 10 Primary subjects pulled from Washington State Admin Code, guidance for SMP updates (WAC 173.26)
- Public Access - Public access may be required for public projects, commercial and industrial, subdivision of land with more than 4 lots, not for single family residences. RCW
173.26.221.4. The RCW gives options, i.e. nearby park or county road, as alternative, or broader public access plan as discussed by Planning Commissioner Brown.  
• Shoreline Environment Designation Mapping: required to map all of the Shoreline Designations of Kitsap County. Draft map range from High Intensity Zone (most urban areas) to Aquatic (areas below Ordinary High Water). This mapping is based on the Inventory & Characterization Report, RCW criteria and input from Task Force Committee.  
• Southworth area and Illahee area for examples of different mapping designations. The new designation is Aquatic. This is from Ordinary High Water mark waterward. The waterward boundary extends halfway across the waterbody adjoining the next jurisdiction. For example, King County has the eastside of Colvos passage and Kitsap County has the westside of the passage.  
• Piers and docks will be our discussion at August 16, 2011 Task Force meeting. Discussion will be held on maximum length of docks, and other issues relating to moorage structures.  

Discussion is held regarding the ownership of high and low water marks. WAC has environmental guidelines that needs to be followed, it does not matter who owns the property. Mean high water mark is utilized as a jurisdictional boundary by Army Corp of Engineers. Shoreline applications are reviewed by the county, Fish & Wildlife, and Army Corp. of Engineering. Federal government only has authority from Mean High Water waterward. State Fish & Wildlife has jurisdiction from Ordinary Highwater mark waterward.  

Discussion is held on shoreline non-conforming homes and review by local real estate companies and lending institutions regarding their review of such properties and their willingness to loan money on these properties. Department of Ecology is conducting a study on what the effect of non-conforming homes have on financial lending and homeowners’ insurance.  

3:59:01  

Chair Paralez opened the Public Hearing and Deliberations for Title 16  

3:59:30  

E. Public Hearing & Deliberations – Kitsap County Title 16, Scott Diener, Policy & Planning Manager  

• Public Hearing this evening will be on Boundary Line Adjustment, Legal Lot Determination and Condominium Subdivision  
• Following a meeting on Thursday with Mark Kuhlman, Norm Olson, Bill Palmer, Mark Eises & Gary Anderson several agreed changes were made to the August 12, 2011 Draft Title 16. (Blue Text) Staff does support these changes.  
• Page 7 16.04.05C Testamentory Division must conform to zoning laws  
• Page 10 16.04.080 B6 Adequacy of Access added criteria for when the county requires private roads  
• Page 12 16.04.080 E Homeowners Associations added Road or Storm Maintenance Agreements in lieu of Homeowners Associations in rural areas  
• Page 12 16.04.120 Phased Development staff recommends Alternative 1 Phased Development would occur during the SDAP phase of development
• Page 13 16.04.140 Dedications Revised Greenways, Bicycle Lane and Mosquito Fleet Trail Plan as adopted
• Page 17 16.08.040 Prohibition on Development 16.08.040 Innocent Purchaser Exception – Removed subsection 1C the “one time only” section
• Page 21 16.08.040 Alley Removed an alley as a secondary means of access – propose that an alley can be a primary access
• Page 22 16.08.06 Binding Site Plan Revised that a BSP can be alternative form of subdivision
• Page 46 16.24.030 General Requirements Removed requirement of land segregation within UGA to develop streets to city standards
• Page 46 16.24.040A Urban Standards and Access Revised section Private Roads to comply with Fire Marshal requirements regarding emergency vehicle access
• Page 47 16.24.040 C Urban Standards Non-Motorized Facilities Added clarification for ADA standards and made changes to Greenways, Bicycle Lane and Mosquito Fleet Trail
• Page 48 16.24.040 F Urban Standards & Landscaping Requirements – Maintenance of street trees and landscaping within county Right-of-Way is the responsibility of property owner
• Page 49 16.24.240 H Urban Standards & Recreation Requirements – All land segregation except Performance Based Development (PBD) won’t have to meet these recreation requirements. These requirements are addressed in Title 17. Revised definitions for various Open Space
• Page 50 16.24.050 A Rural Standards & Access – Removed additional requirements for easement width for cut and slope area
• Page 54 16.24.070 Land Segregations within the Shoreline Jurisdiction revised section to comply with Title 22
• Page 60 16.40.202 Phased Development removed this entire section at this time
• Page 130 16.62.020 Legal Lot Determinaion – Staff is recommending Alternative 2 RCW 58.17.210 – A lot is presumed to be a legal lot of record unless proven otherwise
• Page 134 16.64 Boundary Line Adjustment – Staff is recommending Alternative 2 – Removing Language relating to adjustment of Condo units and expanding the review process

4:11:56

Shelley Kneip, Kitsap County Deputy Prosecutor: Condos in relationship to long subdivisions – Kitsap County must be in compliance with state law. Binding Site Plans is a parcel of land that is divided and transferred to someone else without going through the subdivision process. RWC 58.17.040 (7) states exempt from subdivision law but only after the recording of the Binding Site Plan. The Binding Site Plans in Kitsap County have been used for commercial and industrial land. Under state law a Binding Site Plan should be used for commercial, industrial, condo, residential or mobile home parks. Following review by the county, the Binding Site Plan is recorded with the conditions listed on the parcel map.

Discussion is held regarding the criteria of an Innocent Purchaser.

Kneip stated that with the overhaul to subdivision, Boundary Line Adjustment, Condominium, Legal Lot Determination reviews in place, there will be less and less issues relating to the Innocent Purchaser.
Larry Keeton, Director, DCD: Boundary Line Adjustment – The reviewing of a map indicates areas of Hiatuses and Tax Title Strips in Kitsap County. Neither of these areas is considered a legal buildable lot. The county has started to write “Notice to Title” for these areas, so the person purchasing these lots would know that these may not be buildable lots. A Boundary Line Adjustment was originally created to allow an adjustment of property lines between two neighbors.

Baglio asks why the application that is submitted by the Land Surveyor couldn’t have the question, “Is this a tax title strip or hiatus?” check box yes or no and place the surveyor’s seal with signature? The county’s review of the request would eliminate any future issues.

Sommerhauser asks where the term hiatus came from?

Barnard explained the term hiatus is a surveying term; In a legal description one line from the north and one line from the south to make a common boundary line. When the common line doesn’t meet, then it’s a called a hiatus or a gap. An Overlap is caused by an erroneous legal description.

Baglio asked if a hiatus could be eliminated through a quiet title act?

Barnard: “Yes.”

Discussion is held regarding testamentary provision.

Kneip gives an example of 15 heirs receiving a 20 acre parcel. The courts states that receiving a parcel by not going through the subdivision regulations, must still comply with zoning regulations. If the zoning requires a 5 acre parcel and the heir has a just quarter of an acre that would not be considered a buildable parcel.

Sommerhauser asks how a property owner would know that it’s their responsibility to maintain landscaping and street trees in the Right-of-Way in front of their plat. These conditions will be listed on the face of the plat and it’s the homeowners’ responsibility to know these conditions. The conditions of the plat are recorded with the Kitsap County Auditor Department.

Brown asks about the property owners maintaining street trees in Right-of-Way. “Will the county hold them harmless from liability, if there is an incident? The Right-of-Way is an easement. Will they have to get a Right-of-Way use permit?

Kneip: “No.”

Sommerhauser ask about what happens when a street tree dies? Whose responsibility to replace the tree? The home owner would have to replace the tree.
Diener explained that the alternatives have been included in the August 12, 2011 Title 16 Draft.

Norm Olson, NL Olson & Associates: He states that the meeting with staff on Thursday, August 25, 2011 was productive and much appreciated.

- Legal Lot Determination on Matrix: Item 10 Adequacy of Access the concern is about a property owner (adjacent to a future subdivision) having to grant an easement to the developer of the subdivision without compensation. One suggestion would be for the owner to set aside property for a future road, then this owner would be compensated.
- Innocent Purchaser: Suggested that a person with several lots would be able to be an Innocent Purchaser for all of the lots.
- Legal Lot Determination: Recommended that #51 through #57 additions be added to the Alternative then it would work well.
- Boundary Line Adjustment: Support would be given to the Alternative where there wouldn’t be any review, but there is an Ordinance in place. To the BLA Alternative #1 suggested that if applicant chose to have a review by staff that that would be allowed. The hourly rate would then be applied.

Diener states that alternative 1 has this added for review by Planning Commission. If the Planning Commissioners choose Alternative 1 then the BLA would be added as requested.

Mursell stated everything on Matrix is in the August 12, 2011 Title 16 Draft and Alternatives that staff is supporting.

Ron Eber requested that the Planning Commissioners adopt Boundary Line Adjustment and Legal Lot Determination chapters to this updated code. Innocent Purchaser should be eliminated in the future, by adding the BLA and Legal Lot Determination. Requested adding the review for Government Lot with definition should be added to page 131.

Dave Proctor, CSI Land Surveying regarding Government Lot, this is a federal term not a county term. Hiatus, I thought it was an overlap and a gap. The county uses a hiatus as a gap but not an overlap. Boundary Line Adjustment should not be reviewed by the county. Currently BLA are just small adjustments to property lines between neighbors. Let the courts handle these issues regarding a BLA. A BLA application form would be useful for applicants to determine if a BLA is required.
Chair Paralez calls for a motion to close the Public Hearing

A motion is made by Commissioner Foritano and seconded by Commissioner Nevins to close the Public Hearing.

The Vote: Unanimous
The Motion carried

Baglio asks about what happens during the Boundary Line Adjustment process and the payment of taxes. The Assessor Department’s current policy is full payment of taxes prior to processing the application.

Brown asks for clarification on Page 8 16.04.050 G reference for lots for width and area for building site then Page 22 16.08.080 under Boundary Line Adjustment reference width and area. Should “building site” be added to that statement? Under 16.04.050 G staff will remove the words “building site”.

Brown asks for clarification on Page 11 16.04.080 C Safe Walking Conditions #1. Is it necessary to do frontage improvements of sidewalks if applicant will not be accessing that street?

Discussion is held regarding street improvements, the nexus being the location of the school to the housing development. The impacts of the development, relating to improvements, in accordance to State Environmental Policy Act (SEPA) requires mitigation of sidewalks for the safety of children.

Brown asks for clarification of a sidewalk between two properties, in a cul-de-sac, that would allow walking between these two properties. Commissioner Foritano stated the Homeowners Association maintains a walkway for the upper half of the homeowners to have beach access.

Brown concerned about the language of American with Disabilities (ADA) in regards to sidewalks. The county follows the Washington State Department of Transportation Design Manual for curve ramps.

A motion is made by Commissioner Sommerhauser and seconded by Commissioner Foritano to approve the Chapter 16 Draft of August 12, 2011 submitted by staff.

Baglio asks about the Boundary Line Adjustment what the fees or the time frame for review.

Keeton stated fees will be $115.00 the hourly rate. The $90.00 application fee would be waived, since this would be a review not an application. A statement will be issued that the request is approved.

Nevins is concerned about the changes and the needs further review.
6:04:32

A motion is made by Commissioner Baglio and seconded by Commissioner Nevins to table the previous motion to the next meeting.

Diener stated the next meeting’s agenda has deliberations for Espresso Code, Special Projects, Site Specifics, Shoreline Master Plan and Agricultural Policy review. Staff would suggest tabling the vote for another date.

Keeton stated staff would give the Planning Commissioners a clean copy of Title 16 and adequate time for review. Mr. Keeton suggested the next meeting be held on August 30th.

Commissioner Baglio amended his motion to table the previous motion to August 30th meeting.

The Vote:
Yes: 8
No: 0
Abstain: 1
The Motion carried

6:12:54

Discussion is held that the document that will be deliberated is the August 12, 2011 Title 16 Draft Document.

F. For the Good of the Order: Chair Paralez

Chair Paralez requests a motion to adjourn.

A motion is made by Commissioner Sommerhauser and seconded by Commissioner Nevins to adjourn the meeting.

The Vote:
Unanimous
The Motion carried

Time of Adjournment: 6:16:54

EXHIBITS
A. Title 16 Draft 8/12/11
B. Kitsap County Shoreline Master Program 8/5/11 Draft 3
C. Internal Comment Matrix 8/11/11
D. Public Comment Matrix 8/11/11
E. Phased Development Chapter 16.04.120 Alternative 1
F. Legal Lot Determination Chapter 16.62 Alternative 1
Kitsap County Planning Commission – August 15, 2011

1. G. Road Standards Chapter 16.04.080 Alternative 1
2. H. Boundary Line Adjustment Chapter 16.64 Alternative 2
3. I. Memorandum 8/15/11 from Scott Diener, Manager, Policy and Planning, DCD
4. J. Letter from David Proctor

MINUTES approved this ______ day of ______ 2011.

_________________________________________

Karen Ashcraft, Planning Commission Secretary