Kitsap County Planning Commission – November 4, 2014

M I N U T E S
KITSAP COUNTY PLANNING COMMISSION
Administration Building – Port Blakely Conference Room
November 4, 2014 9:00 am

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, Port Blakely Conference Room 619 Division Street, Port Orchard, WA

Members present: Lou Foritano, Tom Nevins, Jim Svensson, Linda Paralez, Erin Leedham, Linda Rowe, Joe Phillips and Jim Sommerhauser
Members absent: Karanne Gonzalez-Harless

Staff present: Eric Baker, Heather Adams, David Greetham, Elizabeth Court, Patty Charnas and Planning Commission Secretary Karen Ashcraft

8:57:11
A. Call Meeting to Order, Introductions by Chair Foritano

8:59:54
B. Agenda accepted as presented.

9:00:01
C. Approval of October 7, 2014 minutes as corrected.
A motion is made by Commissioner Paralez and seconded by Commissioner Svensson to approve the October 7, 2014 minutes as corrected.

The Vote:
Yes: 8
No: 0

The approval of October 21, 2014 minutes as corrected.
A motion is made by Commissioner Sommerhauser and seconded by Commissioner Svensson to approve the October 21, 2014 as corrected.

The Vote:
Yes: 4
No: 0
Abstain: 5

9:01:13
D. Director’s Update: Larry Keeton, Director, DCD
• Open Houses for Comprehensive Plan
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- Meeting with the Community Advisory Groups
- Revenue up especially in Commercial Permits
- Buildable Lands Report
- Shoreline Master Plan Open House – November 17, 2014 – (Hearing before BOCC November 24, 2014)

Commissioner Nevins commented on the Comprehensive Plan Update Scope and Strategy document. Who determined the new Policies?

Larry Keeton stated that the direction was to review the Policies for what is the most effective, what can be achieved, what is considered fluff and what are we trying to accomplish. The various agencies did the reviewing, i.e. transportation, health, storm water, economic development. The Comprehensive Plan should have a goal, policy and strategy.

Chair Foritano commented on three counties in California and their planning issues.

Larry Keeton commented on the buildable lands of Kitsap County and when is it necessary to build up and not out, for instance Harrison Hospital in Silverdale. We will need to look at transportation differently now because 20 years from now there will more people in the area. We need to be prepared. The 2006 Comprehensive Plan is a good foundation for the future Comprehensive Plan.

Commissioner Sommerhauser requested information regarding the Sign Code Ordinance and Budget. Larry Keeton stated the Sign Code Ordinance goes before the Board on November 10th for Deliberations and Decision only. Also, the Gun Range Ordinance will be heard for November 10th also. He has heard that DCD will be getting a Fire Marshal Prevention Officer, half-time Plans Reviewer and a fee related Plan Reviewer. Staffing for Addressing and Comprehensive Plan work will be decided in January, 2015.

9:19:55

E. Deliberations & Findings of Fact: Forestland at Risk/Transfer of Development Rights

Program Update – Eric Baker, Special Projects Manager, Kitsap County Commissioners

- Chapter 3 of the Comprehensive Plan Transfer of Development Rights Program
- October 28, 2014 Public Hearing was held; no oral testimony was given. One written testimony provided in support of program
- Eligible Parcels
- Tax implications
- Tax Deferral (Designated Forestlands, Current Use Agriculture)

Commissioner Sommerhauser inquired if Conservation Easements are shown on Title of Property? Is it a recorded document?

Eric Baker stated yes. It is a recorded document. This should not be an unknown by your Title Company.

Commissioner Sommerhauser stated that we don’t have to worry about someone coming in and thinking that they are buying one thing and Title Search not catch it.

Eric Baker stated it would depend on your Title Company but it should not unknown at that point.
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Commissioner Leedham inquired about the Transfer of Development Rights would be shown on the property’s Title?
Eric Baker stated yes.
Commissioner Leedham questioned if the taxes would be for the recent nine years.
Eric Baker stated yes, it’s the most recent nine years of back taxes.

Commissioner Svensson inquired if the county’s Transfer of Development Rights were modeled after other jurisdictions are using effectively or are we re-inventing the wheel?
Eric Baker stated to a degree the other programs that are in place have a lot greater staffing applied to it. King County is utilizing a bank structure. They have staffers that are looking at a stock exchange type model. Development Rights go up and they go down based upon assessed values, appraised value; things of that natural. They have one or two staffers operating on that.
Commissioner Svensson inquired if the concept is used consistently in King County? They have that kind of staffing?
Eric Baker stated yes. King County runs the Regional Bank at this point. Generally, what they do is they buy up these Development Rights, hold them and then dispense them at the top. Kitsap County is not at that scale. So, we are looking at a more Development Community model. This is different from how King County operates. That being said, it is more appropriate for our level of ability. Also, it is functionally or academically sound. At least through the initial findings through Forterra, who helped King County build their Transfer of Development Rights Program? Though it is different, though at this point is functionally sound with a robust outreach and marketing program and the public knows not just about it but how it works and the requirements of it. And legislation between legal lot and tax parcel that will allow the real estate community to sell and use a legal instrument which would be a Development Rights Certificate. This is to sell components of value of a piece of property. Which will allow people in the rural areas to receive value off their land without having to sell it forever, when that may not be what they want to do? If they want to harvest crops or build a home that they need the money because they have a health issue or their kids need money.
Things of that nature.

Commissioner Sommerhauser inquired about the certification process for Transfer of Development Rights. Give us an example of how you see that coming into later on when we do that.
Eric Baker stated if we went the certification process route, basically we would have a required; right now we have a legal lot review process. If someone comes in and says they have a legal lot, I can build on you can get something from the county that that’s a legal lot. I am assuming that it would work pretty much similar to that but the assessment of whether you have a legal lot or not and whether there is a Conservation Easement lay over the top of it and with county approval you have a Certificate of Development Right which you can sell. I am not saying that is the route we will initially go; again we had originally kind of looked at the more outreach information in the private sector. But if we do the certification process, it would require that someone come to the county to get their Transfer of Development Rights certified before sale. More cumbersome, but again might keep somebody from thinking that well everything appears on the Title Report. That doesn’t help people who are grossly affected by not knowing and that can be a political issue for...

Chair Foritano stated we are into our deliberations and hopefully lead into Findings of Fact.
We have a draft and revisions to the updates to Chapter 3 and we have eligibility and tax Implications. Does anyone have any questions or comments?

Commissioner Sommerhauser stated that we left the record open for an additional week. Was there any additional input? 
Eric Baker stated he saw none and Karen Ashcraft saw none.

Chair Foritano stated that the one referred to before was the Doug Skrob, on McCormick Woods.
Eric Baker stated he has a number of conservations with folks but didn't have a need to testify on this language, although you can expect robust attendance when we get down to the nuts and bolts but how the system will actually work.

Commissioner Paralez inquired as to how the administration of this program continued to be funded? Is there a fee associated with it? 
Eric Baker stated that there is fee of a legal lot certification. When someone comes forward there is a fee associated with that and then when someone applies for a re-zone or a Comprehensive Plan Amendment there a fee associated with that and then with a TDR. There are two places that the TDR program plugs in to the county there is a fee associated with it. We are developing any kind of ratios of development rights up front in the Code at one time. After that, in theory outside of those two pressure points of the county, there shouldn't be any additional heavy lifting. Other then the annual review and marketing and likely that component would come out of the General Fund.

Commissioner Phillips inquired if the development value would be determined at the time they applied to the county is the subject? 
Eric Baker stated the county would actually not be involved in what the value of what the property is. What we are very concerned about is being sold is a legal lot and hasn't already had a development rights sold off. That is what Kitsap County is going to certify. It will come down to the real estate community as to what a development right is worth. It really turns into that "Supply and Demand" concept. That someone may sell one for $22,000 but as more people come into the mix that number will just as it goes through the real estate community or anything else, will go up and down based upon.

Commissioner Phillips stated your ultimate goal is to be able to play the greater Puget Sound area? 
Eric Baker stated he would call that an option. That is not the greater goal at this point. We are looking at each intend. There is a possibility if we go to the regional pot, there is a slim possibility that the local mechanism that we install are going to have to be replaced largely by what it will take to be holistic system. At that point, we will be participating in King County’s bank and how they distribute Development Rights would likely take precedent over whatever we create locally. So, I guess from my current stand point and I can’t say that the Board agrees with it, that we attempt to create a local system. If the local system does not take off in the next couple years, then we get into the regional pot and at least see the benefit of selling from our rural areas even if we are not getting the benefit in urban.

Chair Foritano stated that I can just imagine from one perspective when a residential purchaser stand point, its going to be a very interesting “let the buyer beware “ in this scenario in assessment of value because the real estate community is aiming but I am a genius
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in terms of how it might view our assessed value. We have got experts with us, Commercial buyer, of course, have the benefits of staffs and research. This will be very interesting to see how this plays out.

Commissioner Rowe stated that she felt this was out of the scope of most real estate agents. This is similar to practicing law and we are basically limited from? Maybe this for a commercial broker would be familiar with that. Eric Baker stated in general we will be providing all of the necessary forms for the real estate folks to fill in the blanks associated with, then again that the outreach to the real estate community about the mechanism and how it would work. Yes, you are correct at this point we don’t want the real estate community get over their rules in any way. Commissioner Rowe stated she had spoken to an attorney concerning these documents. To me I think ....

Commissioner Sommerhauser inquired about RL80. This looks like exactly the fluff language that Larry just talked about and about not having in the Comprehensive Plan. Eric Baker stated that the explore opportunity at this point is a number of steps that are necessary to get into the original plat. What this language is doing is saying that we are going to create a local system and look at the opportunity to enter the regional system not making a commitment to it. This language indicates that in 2015, we will update the local Transfer of Development Rights Program with additional analysis for future discussions associated with the Regional plan. That is the intent of the language. Commissioner Sommerhauser stated I would be much more in favor of language reading like what you just said, instead of what it says here.

9:40:01

A motion is made by Commissioner Sommerhauser and seconded by Commissioner Paralez To accept as written the proposal and you will probably have amendments to change.

9:40:23

Commissioner Nevins would like to offer an amendment to the motion. If you want a document to look at RL77 which is a policy that identifies sending sites. Included in there are A. B. C. A. Is less then minimum lot size. B. Is rural wooded which is many, many lots and C. is lots associated with farming areas. I would like to add one more. The one I would like the Planning Commission to consider is: “Lots that require relaxation of environmental protection in order to be converted to a development site.” I can explain that a little bit. This is... Right now before the Hearing Examiner is my case in point. There is a lot on the waterfront which is evaluated by the Kitsap County’s Assessor as being $33,000.00. $33,000.00 for a basically ¼ acre, oh no it’s a 1/3 of an acre plus an additional about 10th of an acre lot. Pretty unheard of the find a waterfront lot that wide. The reason is that it was perceived not to be unbuildable lot, but magic is in the process of happening. Someone paid $43,000 to do this. My preference on a lot like that would be to allow the property owner to have some value for selling his development rights to his previously recreational lot. The lot just used for camping and viewing the water, etc. But it is 1/3 of an acre on the water. So anyway it was requiring some rather extreme relaxation of environmental protection in order to do that. The intent of my offer is to allow an option so that to not happen.
Eric Baker stated he would like to propose language to address that. I would really like to look at something that is easily qualified up front the downside is a ladder of what you are proposing. You really don’t know until the application comes in and a bunch of wetland analysis comes in. So what I would propose is to RL77:
D. Lots that are predominately encumbered by wetlands, streams and required buffers with the idea being the code would put a number on that; 80% encumbered or 75% encumbered or maybe an acreage encumbered all but a ¾ acre or something of that nature, or something that is too small without having to do what have proposed.

Commissioner Nevins stated it presently requires relaxation of buffers greater then 50% or something like that when I comes down to code. Yes, that would be acceptable.

Chair Foritano would that language is acceptable?
Commissioner Nevins stated yes that would be acceptable.

Chair Foritano stated that a modified motion with a second.
A modified motion is made by Commissioner Nevins with a second by Commissioner Sommerhauser.

Chair Foritano: Is there any further discussion? All in favor of the amendment?

Vote:
Unanimous

Chair Foritano stated back to Deliberations.

9:44:35
A motion is made by Commissioner Sommerhauser and seconded by Commissioner Leedham to revise the language of RL58 to clearer language to me that Mr. Baker could spell out to us in previous discussion. RL80? Yes, RL80.

Commissioner Sommerhauser stated I think this is desired type stuff and let’s make it clearer to what we are talking about. The way Eric phased it met my needs.

Chair Foritano stated that’s two step, first Kitsap County then extension to Regional.

Eric Baker stated upon established and review of local Transfer of Development Rights Program seeks participation in the Regional Transfer Development Rights system currently operating in.

Commissioner Paralez stated “Based on the success or based on lessons learned from implementation. You could use that as spring board to “may” evaluate participation.
Commissioner Sommerhauser stated “may evaluate participation.”
Commissioner Paralez stated to include two years of evaluation

Chair Foritano stated we will continue Deliberations.

9:46:56
Eric Baker stated based on lessons learned from implementation of the local TDR program, consideration may be given to participation in the Regional Transfer of Development Rights System currently operating in King, Snohomish and Pierce Counties.

Chair Fortano stated that is good for me. How about you, Jim?
Commissioner Sommerhauser stated as opposed to “will” I would say “may”.

Eric Baker stated he didn’t want to attach a date to it, as a lot of things come up as to exactly what, how long we are going to want to see this.

Commissioner Sommerhauser stated I would leave it open without a date.

Chair Fortano stated I think we have language.

9:48:49
Commissioner Sommerhauser made the motion and Commissioner Svensson seconded the motion.

Vote:
Yes: 7
No: 1

Chair Fortano stated further discussion, deliberations before Eric goes off and crafts the Findings of Fact, unless he has got it. Is that your intent?

Eric Baker stated that we have draft Findings of Fact that are available that just what we are doing here is an attachment that we can just plug it in. First you would want to conclude and close the discussion on the amendment.

Chair Fortano stated any further amendments or discussion?

Commissioner Sommerhauser stated this is not a part of this, but I am going to propose that we send along a group thought that we attend with our vote on what the actual changes would be. I think it would be very appropriate from the beginning that the county maintains “some finger in the pie”, at least by the Certification process. You don’t want to create an opportunity for people to foul it up or trash it by going out there “Fly by knighting it”, the way a lot of programs are at. I have seen localized bank bond programs and things like that that have gone exactly like that so. I suggest that after we vote on the language itself that we send along one last thing to the Kitsap County Board of Commissioners a recommendation for the county to keep a “Finger in the Pie” at a minimum by having County participation from the certification of the TDR documents.

Eric Baker stated that that can be included in the Findings of Fact as one of your findings to be included in the future code. We have that document as well.
Commissioner Sommerhauser stated I think there will be a whole like of novices playing here and I think we should have somebody has a real idea that can assure the buyer and the seller that its been looked at and meets at least our understanding of what we tried to do.

Chair Foritano stated that also meets Linda’s concern that the suggestion here be voluntary in the part of the real estate community to have an attorney involved in this.

Chair Foritano stated further deliberations? Hearing (no further deliberations) none.

Commissioner Sommerhauser stated ready for the final.

Chair Foritano OK Motion to close or do we need to do that formally?

9:52:08
A motion is made by Commissioner Sommerhauser and seconded by Commissioner Rowe stated you have got the base motion on the table, it would be we would be voting on as amended.

Chair Foritano stated there is motion to conclude deliberations as amended.

Vote:
Unanimous

9:52:52
Eric Baker stated Item number 16 or insert in one of these which is what we will play with. He distributed the draft Findings of Fact for review.

9:54:26
A motion is made by Commissioner Sommerhauser and seconded by Commissioner Paralez insert Item number 16 on our recommendations of certification process moved to accept the Findings of Fact.

Vote:
Unanimous

Eric Baker requested if the Planning Commissioners wanted signed copies for all or just copies of the Findings of Fact.

Commissioner Sommerhauser stated just copies for the Planning Commissioners with a signed copy by the boss.

9:55:08
F. Briefing: News on the Comprehensive Plan Update – David Greetham, Planner Supervisor, and Elizabeth Court, Senior Planner, Planning & Environmental Programs, DCD

- Update Comprehensive Plan Public Outreach Program
- Three Open Houses – North, Central & South
- Invitation Post Card sent to unincorporated Kitsap County households
- Press Release
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- Overview by Katrina Knutson
- Nine Interactive Stations
- Continuing to reach out to the community
- Received approximately 800 comments from the Survey (Older Generation)
- Second Survey targeted to 18 to 34
- Goal is 3,000 comments

Commissioner Sommerhauser suggested increasing the number of comments to 5,000.

Chair Foritano requested what the next tier of communication will be, i.e. web site, newspapers, more
Open Houses or on large one in Central Kitsap?
Elizabeth Court stated that after the initial draft is complete to do another set of Open Houses.
We are continuing to do face to face meetings, i.e. Chamber of Commerce schedule, Community
Groups, Cities. We have met with the Sheriff’s office, Shawn Devine, elections; KC Auditor’s office put
a link to our web site.

Chair Foritano requested information on the Comp Plan going from nine to three dominate areas:
Transportation, Economic Development and Land Use. How will you determine what the public
means by statements as: “I want a ferry.” Etc.
Elizabeth Court stated the first step is compiling our initial round of comments.

Commissioner Sommerhauser requested to know how the public will find out about other people’s
comments are and giving them the inspiration to make a comment also?
Elizabeth Court stated that we are creating a report for the public to review on the web site.
David Greetham stated that the DCD will be doing a report on a fairly regular basis so it will track our
public outreach and keep tract of every quarter along the way. This will be the first one along the
way.

Commissioner Phillips stated you will release the results of the first survey comments and then it will
be posted and then you are still collecting comments that will be more focused as people what
direction this going. For those who don’t have access to the internet, does the outreach include the
newspaper?
Elizabeth Court stated that she has been in touch with the Kitsap Sun about buying space.
Commissioner Phillips stated Kitsap Sun should be running a story.
Elizabeth Court stated the press releases we have had news coverage but also to get people’s
attention and we are also trying to work really hard with the library for the few people who don’t have
computers at home. We, also, communicate with those people who don’t have computers or go to
the library and we maintain an effort to make sure they are informed.

David Greetham stated that they are working with the four citizens advisory groups to do the fitness
review. This week we are meeting with the Manchester Community meeting; they are going to share
with their community what they have achieved since the last Comp Plan update. These are all sub-
area plans the policies become part of the larger Comp Plan. Wednesday evening, we will be in
Kingston; that group will share what they have achieved and request from their citizens that attend
(we did a postcard to the citizens in their areas) what are we missing in the Sub-area Plan for the next
round. Thursday evening, we will be in Suquamish doing the same. Central Kitsap, we will meet in
January for a larger meeting for that group.
Chair Fortano comment on the changing of communities within communities of home based businesses in the Western Los Angeles, California due to the traffic mess in the area.

Commissioner Sommerhauser inquired as to when the Planning Commission will be receiving the Comprehensive Plan updates? David Greetham stated that the Planning Commission will be given Comprehensive Plan updates on a quarterly basis starting in early 2015.

Commissioner Nevins inquired if the Planning Commission be able to see the Buildable Lands Report? Patty Charnas stated yes, the Buildable Lands Report will inform some of the alternatives associated with updating the Comprehensive Plan as directed under state law and the Planning Commission is BLR outreach docket. Hopefully you will give it your blessing at the first meeting in December.

Chair Fortano: For the Good of the Order
Commissioner Paralez stated, "Nice Job!"
Commissioner Sommerhauser stated that Commissioner Fortano and Commissioner Rowe are not going to request re-appointment to the Planning Commission.

Chair Fortano stated that we may not have a second meeting in November and there may not be a December meeting. He gave his thanks for the last eight years of a wonderful experience, learning experience, contributing experience it has been great. He enjoyed his time on the Planning Commission and wish all well with the great events ahead.

Commissioner Rowe stated that she would not be requesting a re-appointment to the Planning Commission.

Eric Baker requested that the Findings of Fact for the Transfer of Development Rights Program with a review of item #12 and the two changes that you requested.

Time of Adjournment: 10:17:23

Exhibits:
A. 2014 Comprehensive Plan Amendments Transfer of Development Rights Program – Eligibility Requirements and Tax Implications
B. Findings of Fact, Conclusions and Recommendations of the Kitsap County planning Commission to the Board of Commissioners of Kitsap County, Washington 2014 Regarding Comprehensive Plan Amendments to the Transfer of Development Rights Program
C. Attachment A – 3C. Transfer of Development Rights

MINUTES approved this 20 day of January 2015.

[Signature]
Planning Commission Chair

Karen Ashcraft, Planning Commission Secretary