MINUTES – Regular Meeting

Thurston County Planning Commission
Wednesday, November 6, 2002
County Courthouse Complex
2000 Lakeridge Drive SW
Building 1 - Room 152
Olympia, Washington 98502

1. Call to Order

Chair Bower, followed by introductions of Planning Commission members, called the meeting to order at 7:00 p.m.

   a. Attendance

Members Present: Bob Bower, Liz Lyman, Brian Fagernes, Tom Cole and Mark Lovrien
Members Absent: Barbara Frost and Peggy Paradise
Staff Present: John Sonnen, Jeff Fancher, Fred Knostman and Sandy Norton
Guest: Bob Mead, Hydrologist for Thurston County

   b. Approval of Agenda

Commissioner Lyman requested to add “nominating committee” to the agenda. The topic was added under planning commission and staff updates.

The agenda was approved as amended.


Mr. Sonnen provided a short briefing for each of the three proposed amendments, which are as follows:

   a. Critical Area Ordinance Amendment, Section 17.15.865

Mr. Sonnen stated that the proposed amendment is intended to clarify that the 35 percent impervious surface limit applies not only to areas of high groundwater but also to the 300-foot buffer that surround the area.

   b. Critical Area Ordinance Amendment, Section 17.15.930

Mr. Sonnen stated that the proposal is to re-establish sub-sections A. Agriculture Building, F. Golf Course, and K. Road/Street-New Facility performance standards, which were unintentionally deleted from the Official Code.

   c. Wireless Communication Facilities and Pier Foundations in Critical Areas - Proposed amendments to the Thurston County Code and City of Lacey, Olympia, and Tumwater Urban Growth Area Zoning Codes.

Mr. Sonnen stated that the proposal is to make our regulations consistent with applicable federal law
while protecting critical areas consistent with best available science. This would allow Wireless Communication Facilities (WCF) and pier foundations in aquifer recharge areas, subject to conditions, while retaining the prohibition on WCF in other critical areas.

Chair Bower opened the public hearing at 7:12 p.m.

**WIRELESS COMMUNICATION FACILITIES AND PIER FOUNDATIONS IN CRITICAL AREAS**

Joyce Roper – 4211 Oyster Bay Road NW, Olympia

Ms. Roper stated that based upon the briefing provided by John Sonnen, it shouldn’t be an issue however expressed concern with the term “shouldn’t” being used. Ms. Roper stated that this issue was brought to the County in a challenge she had raised relating to a Determination of Nonsignificance for a cell tower proposed in her community. One of the issues raised was a concern about the sensitivity of the aquifer recharge area in her area. Ms. Roper stated she lives in a high sensitive aquifer recharge area and the tower was proposed in that area. The Applicant for this tower told us they planned on putting in a foundation approximately 40 feet down. This was not evidenced by the information obtained from the County. The County had not considered what would be beneath the ground and only asked questions about the ground up. Ms. Roper also stated that she lives in an area where we are dependent upon our wells and the water that flows into our wells. There are also wells in our neighborhood that are fairly shallow, 40 – 60 feet. The issue raised in our challenge did not get into the specifics. We see this as being a critical area and you cannot build a tower in a critical area. I have had this discussion with Jeff Fancher. We are both attorneys and have different interpretations about the critical areas and the aquifer recharge areas. Mr. Fancher looked at the allegations raised and realized this affects the entire county. That means we would have a problem with the federal law because we would have the effect of prohibiting wireless communication facilities in the entire County. If you look at how the County defines the different levels of aquifer recharge areas in the Critical Areas Ordinance, it is extremely clear that the Categories 3 and 4 aquifer recharge areas are not critical areas that need to be protected. They do not recharge the wells or aquifers because the soils in those categories do not absorb the water. The water flows straight through and recharges the aquifer in Category 1 and 2 aquifer recharge areas. This also means contaminants on the surface would absorb through. These are areas worthy of protection. This County cannot afford to provide water to every place in the rural areas of the County.

Ms. Roper stated that she is not worried about the concrete but worried about the materials used. Another thing we found out from the engineer we were talking to is that they found water within 6 inches when they were doing their test drill. We already know that. We have a hard time keeping water out when we try to put in fence posts. We know the area is wet. The engineer stated they would have to displace the water and the water cannot be there when they put in the foundation. The water will leach through the concrete and in order to protect the equipment, they have to put something in it to keep the water from leaching into the concrete. They will be using a chemical that they have not identified to the County. The County is not aware of any chemical being used. We do not know if it is bentonite or another chemical additive they may use. The Community started raising these questions and issues and requested the County to start asking about holes being drilled. The County should continue to protect Category 1 and 2 aquifer recharge areas, especially in the rural areas of the County that rely upon wells. Right now, downtown has been saturated with cell towers and that is why they are moving to the rural areas of the County. This is why we who live out in the County are concerned about protecting our water. We are asking that this not be changed without taking into consideration
Ms. Roper stated that the expert hired by the County engineer examined concrete. His report is based on concrete. There is one section where he sites to Tretus, a book highly regarded in the engineering field, where he said if they are adding something into the concrete, there could be concerned about that contaminating the water. Even the County expert recognizes there could be cause for concern. We are asking for a more deliberate study to this issue. Ms. Roper added that it does not make sense to take this issue out on its own when we have a comprehensive review that has been referred to the Planning Commission. This really is an area of concern for a number of people for a variety of reasons for the wireless communication facilities. Lets have it all at one place and bring all the people together to raise all their concerns rather than taking one issue at a time and dealing with a piece meal.

Hillary Lewis – 4211 Libby Road NE, Olympia
Ms. Lewis stated she works in an environmental laboratory and works with bentonite every day. We are drilling and filling in holes after we do well work. I brought up before that these wireless facilities are not solar power. They do have housings. These housings have fuel for backup generators. I was told there was no problem with them and they are not a concern to the aquifers. I am here to tell you that if mineral oil, diesel, oil, or gasoline gets into the aquifer, it will ruin it. This is my bread and butter and this is what I do every day. I call up consultants and contractors and say let us come and dig and let us do your analysis.

I was very happy the next day when I got to the office. Verizon had us come out to sample one of the areas that had leaked mineral oil, diesel, and heavy oil from one of their facilities. They wanted us to check their water. They did not want a soil sample because they new it was already in the soil and they new they had contamination. They wanted us to check the water to make sure it had not gotten into the aquifer. Thank goodness it was in Eastern Washington. They were very lucky. It does happen. These things do leak. We have earthquakes. We have towers that fall down. If they fall down and hit the housing, no double wall tank can sustain the pressure. They will crack and they will break and they will go into the aquifer.

The Planning Department will have you believe they can mitigate all these things because they don’t want to believe that any of this could happen. It is the worse case scenario. It happened in Eastern Washington on the 19th of September of this year.

If you want to pretend these problems are almost never happening, it is already happening in this state. I don’t care how sufficient you think the housing is, when a catastrophe happens, and they do happen, your going to have bad aquifers.

Jane Hartough – 1328 5th Avenue SE, Olympia
Ms. Hartough expressed concern where the statement “WCFs are not allowed in critical areas” are being removed from sections of the code and replacing it with “design standards.” It appears that there is no provision left that says under certain conditions the towers should not be allowed at all. The language now reads that towers are always allowed but would have to meet certain design standards.

Mr. Sonnen responded by referring Ms. Hartough to Attachments A & B of the draft proposal. Mr. Sonnen stated that it identified where WCF’s would be prohibited. It precludes them from all cases except for aquifer sensitive areas. The existing critical area regulations give the health official the
authority to deny projects if they feel they pose an acceptable risk to the aquifer. There are sections of the code that deal with hazardous substances. Mr. Sonnen referenced the Critical Areas Ordinance 17.15.515 (B) and read the following “those uses and activities listed in Table 2, which is Attachment B to the draft, which involve the use, handling, storing or generation of hazardous materials may only be allowed when there are no significant risk to the groundwater.”

Ms. Hartough expressed concern again stating that there is nothing in the proposed code that allows denial of the permit.

Joyce Roper
The items relating health officer reviews only occurs if the pier foundation for the wireless communication is proposed within 100 feet of an existing well. When you talk about the County, where you measure property by acreage and not by feet, that means that the only well you would be potentially dealing with would be the property owner who wants to have the WCF for the economic return they would get. It would not be helpful for the neighbors who well might be 200 feet. The County is looking at the lateral distance between the foundation and well and not the vertical separation between the aquifer and the neighboring wells. The vertical separation is the bigger issue. The County does not know where all the aquifers in the County are and the depth of the aquifers. The neighbors know how deep their wells are. The Applicant should be able to find out how deep the wells are within the 1400-foot radius. The 1400-foot is required notification distance by the County. Why not request that the applicant find out within a 1400-foot radius how deep the wells are? If they are that close to where the proposed foundation would go, why not have a health officer review that? Lets look at this especially if we are talking about an extreme sensitivity or high sensitivity aquifer recharge area.

Ms. Roper referred to Attachment A and stated that there are areas deleted that currently prohibit WCF from being located in. This change does not only affect aquifer recharge areas. There are other critical areas in the ordinance and include special management areas. Summit Lake and Nisqually Hillside are special management areas. This now drops that prohibition. If you do not want a WCF in special management areas, you no longer have the argument that it is a critical area and it shouldn’t be built there. I live in a very wet area.

Ms. Roper asked what the procedure is? Chair Bower stated that the Commission would hold a worksession after the public hearing. If the Commission takes action, they will make a recommendation to the County Commissioners. The Board would then schedule a public hearing on the same subject. The public will then have a second opportunity to provide written and/or verbal testimony.

**CRITICAL AREA ORDINANCE AMENDMENT, SECTION 17.15.865**

No public comment provided.

**CRITICAL AREA ORDINANCE AMENDMENT, SECTION 17.15.930**

No public comment provided.

Chair Bower closed the public hearing at 7:40 p.m.

3. **Worksession/Action: Critical Areas Clean-up Amendments for High Groundwater Areas,**
**Wireless Communication Facilities in Aquifer Recharge Areas, and Technical Corrections**

- *Critical Area Ordinance Amendment, Section 17.15.865 - Clarify that 35 percent impervious surface limit applies not only to areas of high groundwater but also to the 300-foot buffer that surround the area.*

- *Critical Area Ordinance Amendment, Section 17.15.930 - Re-establish sub-sections A. Agriculture Building, F. Golf Course, and K. Road/Street-New Facility performance standards, which were unintentionally deleted from the Official Code.*

The Commission had no questions regarding the above amendment proposals.

**Commissioner Cole moved seconded by Commissioner Fagernes to recommend approval on the Critical Areas Ordinance Amendment proposals, Section 17.15.865 and Section 17.15.930, to the Board of County Commissioners. Motion carried.**

- *Wireless Communication Facilities and Pier Foundations in Critical Areas - Proposed amendments to the Thurston County Code and City of Lacey, Olympia, and Tumwater Urban Growth Area Zoning Codes.*

Bob Mead, John Sonnen, and Jeff Fancher provided comments on the following issues raised during the public hearing.

1) Issue raised relating to the adequacy of County review of WCF proposals only being reviewed above ground and not below ground - Mr. Mead stated that there has been no significant risk identified for the underground components of cell towers. Cement and bentonite are both required elements in Washington State as parts of all individual water systems.

2) Issue raised relating to the different types of additives used. Mr. Mead stated that some additives are organic polymers that have been identified as potential risk agents, but these are put within cement in relatively small quantities. Cement does not allow substances within it to leak out at a rapid rate.

3) Issue raised relating to the use of unknown substances for displacing water in excavations. Mr. Mead stated that the only substance the County has been able to find used for that purpose is bentonite, which is as clean as a substance can be. Mr. Mead stated again that there are no significant elements of risk related to cement or bentonite or the additives associated with them. The proposal to require health department review under limited circumstances is good. It relies upon a 100-foot horizontal separation between wells and wireless communication facility foundations. This 100-foot horizontal separation has been used in Environmental Health for over 100 years and has been shown to be effective to preventing contamination relating to low level risk.

4) Issue raised regarding leaks that have gotten into the environment from wireless communication facilities from other parts of the state. Mr. Mead stated that secondary containment has proven to be effective and is not required in all places.
5) Mr. Mead addressed the issue of requiring the applicant to test wells within a 1400-foot radius and stated that it could be a financial burden on the applicant with little or no apparent value. The 100-foot radius has shown to be effective.

6) Issue raised regarding the ability to deny a project. Mr. Fancher stated that SEPA stands alone no matter what the zoning code says. Anyone can challenge an application if they find there is more than a moderate level of impact to the environment.

7) Issue raised regarding Attachment A not identifying some of the special management areas. Mr. Sonnen stated that the special management areas were established for specific purposes. Wireless communication facilities may have no relationship to those purposes. If wireless facilities would have an adverse impact on a special management area they would be addressed by the specific requirements for the special management area.

8) Issue raised on timing and how this proposal should be considered in context with the other wireless area regulations. Mr. Sonnen stated that this proposal is primarily a critical areas issue and not a wireless issue. We are proceeding with it now because we are at odds with federal law.

Commissioner Lyman asked about seismic activity, type and amount of chemicals stored at the towers, type of response in event of an accident, and the precautions required for gas stations within a high sensitive aquifer.

Mr. Mead stated that past earthquakes damaged concrete only on fill soils in downtown Olympia and in pockets of specific soils types, generally in floodplains, in the county. Fuel containers in concrete vaults would not be expected to have problems outside of these areas. Mr. Mead was not sure how much fuel was stored at WCF sites, but he speculated that it could be as much as 200 gallons.

Commissioner Cole inquired about storage tanks on farms in the rural areas of the County. Mr. Mead stated that there is no requirement for secondary containment for farms.

Commissioner Bower asked if cell tower providers are required to obtain an insurance or another type of protection for spills and cleanup. Mr. Mead stated that he is not able to answer the question, it is beyond his expertise. However, the general rule in state law is that the people who pollute are responsible for cleanup.

Commissioner Cole moved seconded by Commissioner Lovrien to forward the proposed draft wireless amendment proposal to the Board of County Commissioners. Motion carried.

4. Public Communications

None.

5. Approval of Minutes from October 16, 2002

Commissioner Cole moved seconded by Commissioner Lovrien to approve the minutes for October 16, 2002. Motion carried.
6. **Planning Commission and Staff Updates**

2003 Comp Plan

*Mr. Knostman stated that there are five Quasi-Judicial Applications that will be coming before the Commission. Mr. Knostman then highlighted each of the five applications.*

**Nominating Committee**

The Commission established a nominating committee, which consist of Commissioner Lovrien and Commissioner Fagernes. Nominations will be ready for the first meeting in January.

**Vacant Commissioner Positions**

Mr. Knostman stated that the vacant positions should be filled after the first of the year.

**Planning Commission Website**

Mr. Knostman stated that Sandy Norton is working with Kathy Herrera to provide more information on the Planning Commission website. Currently available on the website is the Planning Commission agenda and tentative calendar. The site can be accessed at [www.co.thurston.wa.us](http://www.co.thurston.wa.us). Click on Development Services and select Planning Commission.

If you have suggestions of what you would like to see on the Planning Commission website, please email your suggestions to Sandy Norton at [nortons@co.thurston.wa.us](mailto:nortons@co.thurston.wa.us).

7. **Calendar**

The next Planning Commission meeting is scheduled for November 20, 2002.

8. **Adjourn**

The meeting adjourned at 8:40 p.m.

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Bob Bower, Chair  
Peggy Paradise, Vice Chair
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<tr>
<th>DATE OF REQUEST</th>
<th>ISSUE/REQUEST</th>
<th>AUTHOR</th>
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<tbody>
<tr>
<td>06/06/01</td>
<td>is a Planning Commissioner prohibited to testify as a member of the public on issues before the Commission if they are not acting as a member of the Planning Commission</td>
<td>Lyman</td>
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<tr>
<td>06/05/02</td>
<td>Legal position of the Commission relating to inviting private interest groups to a Commission meeting to provide a presentation on their point of views on a topic when inviting a governmental agency to speak on a topic. Chair Bower also wanted to know the number of private interest groups the Commission would need to invite.</td>
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