THURSTON COUNTY PLANNING COMMISSION

Minutes
May 18, 2005

1. **Call to Order**

Chair Kohlenberg called the regular meeting of the Thurston County Planning Commission to order at 7:02 p.m. Everyone present provided self-introductions.

   a. **Attendance**

   Members Present: Liz Kohlenberg, Tom Cole, Chris Lane, Joyce Roper, Peggy Paradise, Craig Ottavelli, and Bob Musser.

   Members Absent: Liz Lyman and George Darkenwald.

   Staff Present: John Sonnen, Nancy Pritchett and Cheri Lindgren, Recording Secretary, Puget Sound Meeting Services.

   Others: Tom Cook.

   b. **Approval of Agenda**

   Commissioner Paradise moved, seconded by Commissioner Musser, to approve the agenda. Motion carried.

2. **Public Communication Not Associated For Topics That Have Not Been Docketed As Quasi-Judicial**

There were no public comments.

3. **Approval of Minutes and Acceptance of Tapes from April 20, 2005, April 27, 2005 and May 4, 2005.**

Commissioner Cole moved, seconded by Commissioner Paradise, to approve the minutes of
April 20, 2005 and accept the tapes as the official record.

The following corrections were requested to the minutes of April 20, 2005:

- Page 3, 5th paragraph, third line, change “discussion” to “discussing”
- Page 3, 5th paragraph, fifth line, add by Commissioner Ottavelli between “request” and “to”
- Page 4, 3rd paragraph, insert a space between “of” and “slope”
- Page 4, 2nd paragraph from the bottom, change “danger” to “wind throw” and
- Page 6, 8th paragraph, delete the sentence: “Mr. Sonnen stated a laundry list of the cumulative impacts could be addressed.”

Motion carried as amended. Commissioners Roper and Ottavelli abstained.

Commissioner Cole moved, seconded by Commissioner Roper, to approve the minutes of April 27, 2005 and accept the tapes as the official record.

The following corrections were requested to the minutes of April 27, 2005:

- Page 2, 6th paragraph, last sentence should read as follows: “Commissioner Cole stated the buffer width could be less if the geologic structure so indicated”
- Page 2, 7th paragraph, change “only a slight” to “a negligible”
- Page 3, 7th paragraph, “Mr. Cole” should read “Commissioner Cole”
- Page 6, 3rd paragraph, 2nd line, “Ms. Sonnen” should read “Mr. Sonnen”
- Page 6, 6th paragraph, 4th line, strike the word to between “have” and “been”
- Page 7, 2nd paragraph, insert the words as written between “sensible” and “that”
- “Wein” as referred to in the parking lot docket should be corrected to “WEAN.”

Motion carried as amended. Commissioners Paradise and Ottavelli abstained.

Commissioner Cole moved, seconded by Commissioner Paradise, to approve the minutes of May 4, 2005 and accept the tapes as the official record.

The following corrections were requested to the minutes of May 4, 2005:

- Page 2, 2nd paragraph, the first sentence should read as follows: “Chair Kohlenberg stated that a utility facility should be prohibited in both types of hazard areas.”
- Page 3, 1st paragraph, 3rd line, change the reference from “Mr. Cole” to “Commissioner Cole”
- Page 7, 4th paragraph, last line, “second” should be changed to “third.”

Motion carried as amended.

Chair Kohlenberg referred to the parking lot list and requested changing “Wein” to “WEAN” for
minutes dated March 2, March 16, April 20, April 27, and May 4, 2005. She also requested that when an item is added to the parking lot list that it be referenced in the minutes.

4. **Briefing: Geologic Hazard Areas**  
*Staff: Nancy Pritchett*

The Planning Commission and staff continued with the review of amendments to the critical areas regulations.

In response to a question from Commissioner Paradise, Ms. Pritchett confirmed staff will update the tables and reference the standards in place of the “dots” as currently shown. Members discussed hazard and wind throw trees.

Commissioner Paradise indicated the Commission previously deleted the word “minimally” under H 1 on page 20.

Commissioner Paradise asked whether I 1 on page 21 is necessary language. Ms. Pritchett replied staff proposes two options. One is to require a 50-foot minimum buffer. The other is including optional language, which allows an applicant to encroach into the 50-foot buffer with a report that supports the encroachment.

Ms. Pritchett said she would like to add the following words to I  2 on page 22, *consistent with Section K.*, between the words “system” and “or” in the sixth line.

Staff and members proposed optional language that could be added to K 2 on page 23. Chair Kohlenberg asked if the proposed language will appear in the public draft document. Mr. Sonnen replied the proposed language was drafted at the request of Commissioner Lyman. If the Commission accepts the language adapted from the Important Habitat and Species draft, “option” should be removed and the final language included in the public hearing draft.

Mr. Sonnen explained replacement of an on-site facility should occur in the least impactive location for the critical area, taking into consideration the effect in other critical areas. The approval authority will select the location with all of the critical areas in mind that is the least impactive. If Commissioner Ottavelli wants to establish a hierarchy, public safety risk would take priority.

Members and staff discussed a site-specific case presented by Commissioner Cole. A landowner was told he couldn’t develop his property unless the septic was moved off-site and deeded to the county. Mr. Sonnen responded there is no authority in the critical areas regulations that requires an applicant locating a facility off-site. The regulations allow another replacement location within the buffer upon demonstration that there is no other alternative outside of the buffer to accommodate the facility. Brief discussion of the reasonable use exception ensued.

Members concurred to include the proposed language to K 2 with the modification that a public
safety risk rather than an environmental risk takes priority. Commissioner Roper requested the proposed language also be incorporated in the administrative section that discusses competing critical areas.

Staff and the Commission discussed "a" at the top of page 24. Mr. Sonnen commented staff wants to ensure the stormwater treatment method yields water that meets clean water standards. There is language in other provisions requiring stormwater to be treated to produce water quality consistent with the drainage manual. The Commission concurred the paragraph in part reads similar to: “… treated prior to release to current clean water standards by a method that poses the least risk…”

Chair Kohlenberg referred to d on page 24 and recommended a tight lining rather than dry wells and infiltration systems on top of unstable bluffs. Commissioner Paradise suggested allowing the systems as long as they are designed by a civil engineer combined with a geological assessment. Chair Kohlenberg said she cannot think of a situation where it would be wise to put water on an unstable slope and suggested eliminating the option. Commissioner Paradise said she would like to provide property owners with choices. Commissioner Ottavelli suggested the first sentence could read in part, “… shall not be permitted unless within 50-feet of steep slopes” or something similar. Commission discussion on the issue continued. Commissioner Lane noted there are qualified engineers with good track records who can design such systems. Ms. Pritchett referred to the last sentence that states monitoring wells shall be required through one wet season, at a minimum, for a proposed infiltration system. Mr. Sonnen added the Chair is attempting to illustrate how the drainage manual is causing development to put more water into the ground than what would have occurred in the natural environment. The presumption is that the increase in infiltration might post a risk to the stability of the slope. Chair Kohlenberg said staff focuses more on the drainage manual and clean water standards instead of slope stability. The sole purpose is to protect slope stability.

The Commission briefly discussed ending item d on page 24 at “permitted” in line 3. Commissioner Lane asked if members or staff are aware of a situation where a civil engineer designed an infiltration system that didn’t work and a landslide occurred. Chair Kohlenberg replied staff at the Department of Natural Resources (DNR) do know of such an instance. Discussion of buffer triggers and tight lining systems without crossing another property followed. Commissioner Cole stated professionals may make mistakes, but there must be some level of trust. Chair Kohlenberg clarified she would like to correct the county’s regulatory environment that points to infiltrating as the only way to clean stormwater.

Mr. Sonnen explained the Planning Commission’s charge is to regulate development to minimize the risk of slope failure. It can be accomplished by including a reference to the stormwater manual or prohibiting infiltration systems and recommending the stormwater manual refer to the Critical Areas Ordinance as an authority. The goal is to ensure safeguards to reflect that the slope stability safeguards are based on science. There is always a connection between saturated soil conditions and slope failures. He said he knows of property owners who chose to intercept water from offsite sources, control it, and tight line the runoff to reduce the amount of water infiltrating the slope in order to protect their investment. Chair Kohlenberg stated it’s difficult to
determine where the water comes from. The easiest way to deal with the situation is to avoid the situation.

Commissioner Ottavelli said he is concerned about the potential downhill impacts to streams and other critical areas. As long as cleaning and dissipating water in an appropriate manner is occurring, he’s not sure why the Commission is belaboring the point.

Ms. Pritchett suggested adding “within the hazard area and associated buffer” after “permitted” in paragraph d. She illustrated the effect on a white board. Commissioner Ottavelli said the location of a system is not tied to the property line but to a geological assessment. Chair Kohlenberg suggested when addressing cumulative impacts the area of the impact should be broadened. However, she said she’s not sure how that should be accomplished. Further discussion of tight lining and the reasonable use exception recourse followed. Ms. Pritchett reported she spoke with a licensed geologist and hydrogeologist who cited a tight lining as the first option and infiltration with exceptions as the second option.

Chair Kohlenberg suggested adding language similar to, “if a tight line is not possible, other types of systems are permitted if…” Commissioner Lane expressed support for the proposal. Chair Kohlenberg stated the people at most risk are at the bottom of the slope. Commissioner Lane responded people living at the bottom of a slope have to accept the risk when they purchase the property. Chair Kohlenberg said she doesn’t want the county’s development regulations to make it worse. Commissioner Cole suggested retaining paragraph d with the caveat that tight lining is the preferred approach. Ms. Pritchett suggested two options could be provided for public comment. One is retaining paragraph d as amended by Commissioner Cole, and the other is excluding it. Mr. Sonnen said additional language could state it may be appropriate to have the property go through the reasonable use exception process with a decision by the Hearing Examiner following a public hearing.

Chair Kohlenberg pointed out that anyone purchasing property has a right to have county regulations protect the existing property owner. The chapter is intended to protect the stability of the slope and not necessarily the property owners at the bottom. Slope stability becomes a threat to life and property when there are people at the bottom. Commissioner Lane said it appears the Commission is attempting to convey that the professionals are not correct and that the Commission knows better than the engineers.

Ms. Pritchett referred to item 5 on page 12, which states: “Avoid increased threat to adjacent properties. Development in geologic hazard areas shall be designed so it does not increase the threat of the geologic hazard to adjacent properties beyond predevelopment conditions.” A standard is included.

The Commission concurred to retain paragraph d incorporating changes referenced in paragraph 4. Staff will develop appropriate language for the Commission’s review.

Ms. Pritchett reported she has added the report details from the Pierce County and Edgewood
ordinances. Staff will request an engineer review the language to ensure it’s correct. Brief
discussion of including the hold harmless language from Edgewood’s ordinance followed.

Chair Kohlenberg reported she participated in a discussion related to cumulative impacts earlier
in the day. Mr. Sonnen reported it is recognized regulations are geared to be project specific. A
fairly straight-forward approach to address cumulative impact concerns is as an area develops
and required assessments are done, regulations require that the previous assessments should be
considered and reflected in the more recent study. Third party reviewers will review the study at
hand in addition to previous studies. Where there is a combination of bluffs or unstable slopes
and high densities that have the potential to generate increased stormwater infiltration that will
destabilize slopes, special management areas could be created that will require a study of the
entire area to develop proactive solutions. Brief discussion of a model utilized by Kitsap
County for its critical areas, infiltration, and the urban growth area (UGA) followed. Mr.
Sonnen stated there are special management areas the Planning Commission may want to
evaluate. Staff could initiate a sorting exercise based on density and steep slopes and determine
if there are areas that fall out. The Commission expressed support for an exercise.

Commissioner Cole said the Commission should be addressing those areas in the county that
should not be part of the UGA, as well as removing areas that don’t support the UGA.
Commissioner Roper said she is interested in developments in the Grand Mound vicinity. There
is an opportunity to consider cumulative impacts in advance.

Commissioner Ottavelli said he would like staff to prepare a study that compares overlays of
mapped densities inside and outside of existing UGA’s. The modeling effort is something
members may want to consider placing on the parking lot docket. Requiring developers to look
at existing studies and factoring them rather than only considering impacts related to the site
could be problematic. He would prefer an ordinance requiring a developer to look at existing
densities, make assumptions based on build-out, and respond based on that.

Chair Kohlenberg reported it was suggested at the morning meeting the county conduct the
cumulative response from the different subdivisions as development occurs and assess each
property owner an impact fee. Commissioner Paradise agreed with considering the cumulative
effects based on build-out. Discussion of an appropriate formula followed.

Chair Kohlenberg noted once an area is selected, there are relatively inexpensive models that
could be used to provide additional information than what is currently available on a site-by-site
basis. If the county can find a site, it may be able to attract a demonstration grant. Brief
discussion of a subcommittee to evaluate cumulative impacts followed. The Commission asked
staff to consider a version of the most modest proposal if feasible within the existing critical
areas regulations and report back at a future meeting. Further discussion ensued. Commissioner
Ottavelli stated it may be possible to develop a formula based method simply on zoning and
basic geography to assist in the decision-making process.

5. **Briefing: Administrative Sections**
The Commission reviewed the proposed amendments to the general purpose statements for the critical area regulations.

Commissioner Roper suggested using an active rather than passive voice. Mr. Sonnen requested members forward editorial changes to staff.

Commissioner Roper suggested changing “including employing” to “incorporating,” and change “and giving” to “with” in item H. The Commission concurred.

Commissioner Cole questioned whether water quantity and quality should be referenced in item H. Chair Kohlenberg suggested addressing it as a separate bullet.

Commissioner Ottavelli suggested the following amendments:

- In item E, strike the word “important.”
- In item F, strike the words “of these” and replace with “to.”
- In item G, replace “to identify” with “in identifying.”

Commissioner Roper requested item K should read as follows, “To establish enforcement procedures designed to protect critical areas and their buffers, deter activities in violation of this ordinance, and require remedial action and penalties for unauthorized impacts to such areas.”

The Planning Commission began reviewing the definitions section.

Commissioners discussed the definition for “aggrieved person” and those with a financial interest who could request an appeal or a hearing. The Commission asked staff to check and see how “aggrieved person” is used within the ordinance and if it’s appropriate, strike the second sentence of the definition.

Discussion of “agricultural building” followed. Commissioner Roper requested changing “horticultural” products to “agricultural” products.

Commissioner Roper questioned the wording “place of employment” as agricultural buildings might include the practice of mixing pesticides as an example. Mr. Sonnen explained the intent is to address the size of the facility. However the definition is silent about such as issue. The original code contained an exception for agricultural buildings in critical areas as a way to ensure it was somebody’s barn or of a small-scale use and not an industrial function. Commissioner Roper indicated a preference against restrictions against the neighborhood farm. Staff confirmed developing alternative language to address the scale of the agricultural activity.

Discussion of “agricultural, wetland conversion” followed. The Planning Commission concurred to delete the second sentence outlining examples. Mr. Sonnen explained the definition is trying to accommodate the situation where there is a Class III or IV low value wetland under 4,000 square feet, and providing the farmer with an ability to displace the
wetland, eliminate it, or replace the functions elsewhere on the property that is more convenient for agricultural purposes.

Commissioner Roper asked whether the definition for “agriculture” takes into consideration the current use or land that has the potential for agricultural use. Commissioner Ottavelli said upland hatcheries and the raising, harvesting, and processing of clams, oysters, and mussels are not land based agricultural practices. Mr. Sonnen explained some of the language was drafted over a year ago, and as the regulations have evolved some of it may longer fit as well.

Commissioner Cole stated he has a list of questions and comments and will be gone until June 9. He said he also has concerns about enforcement associated with some of the regulations. Mr. Sonnen requested Commissioner Cole forward what he can to staff prior to leaving.

5. Calendar

Who will not attend the following upcoming Planning Commission meetings?

1. May 25, 2005 – Briefing: Open space application. Briefing: Critical Areas – Follow up (Commissioner Cole unable to attend)
2. June 1, 2005 – Hearing/action: Open space application. Briefing: Critical Areas – Follow up (Commissioner Cole unable to attend)

Mr. Sonnen explained the critical areas follow up will include the Important Habitat and Species Chapter. There is a section addressing ponds that the Commission has not reviewed. New language the Planning Commission has requested will be shaded. All of the sections will be assembled into a single draft ordinance document. A subcommittee of the Planning Commission will review the final draft. The Planning Commission does need to review the Administrative Section at its next meeting.

Brief discussion of the table of contents and movement of some sections followed. The subcommittee will begin its work with the final draft document concurrent with the Planning Commission reviewing the Mineral Lands element tentatively on June 15. Brief discussion of scheduling a June 22 meeting followed.

Chair Kohlenberg expressed desire for the Planning Commission to return to its regular meeting schedule following completion of the Critical Areas Ordinance. She suggested not scheduling three meetings in June. Mr. Sonnen replied the deadline for adoption of the ordinance has been extended. Making sure discussion is structured and focused will help with the timeline, as well as the subcommittee reviewing the draft document.

Chair Kohlenberg stated the subcommittee will need more than a week to review the final draft. Further discussion of time needed by the subcommittee and when the open house will be scheduled ensued. Mr. Sonnen reported there should be at least 30 days between the release of
the draft and the public hearing. Commissioner Cole suggested scheduling the open house a few
days following release of the draft ordinance followed by the public hearing. Mr. Sonnen stated
a 40-day timeline could be accommodated providing those who are interested have adequate
review time. Commissioner Ottavelli reported he will be unavailable from June 29 through July
8. Commissioner Roper said she will be unavailable beginning June 23 through July 7.
Commissioner Cole stated he will be gone during the next couple of weeks.

Mr. Sonnen reported staff will have complete drafts to the subcommittee by June 1, 2005. Staff
is working to reconcile language in the Important Habitat and Species and Wetlands sections.

Commissioner Roper asked whether it is possible to have until July 25 to review the draft taking
into consideration time off scheduled by members. Mr. Sonnen stated the timeline will ensure a
more polished draft. The ordinance needs to be adopted by the end of the year.

Commissioner Musser stated August or September is a better time for public hearings, as people
will be on vacation. Mr. Sonnen stated if staff doesn’t receive comments from the subcommittee
until July 25, it will push the schedule into September, which is not necessarily a negative. The
Commission will likely need to schedule three worksessions spanning a couple of months to
consider public input. Staff intends to group the comments by topic for easier review. Once
finalized, the Board of County Commissioners will schedule a public hearing for adoption. The
Planning Commission agreed a public hearing in September pushes the deadline too close. Chair
Kohlenberg suggested the subcommittee should complete as much of the editorial work as
possible between June 1 and June 15.

Mr. Sonnen stated staff can provide the sections that have been completed to the subcommittee
next week. Commissioner Roper expressed concerns that the document will lack continuity.
The Commission would like to have the entire draft. Commissioner Ottavelli suggested staff
include a cover sheet requesting the Commission look at particular sections it struggled with.
Mr. Sonnen replied staff can assemble the material by June 1. The geologic hazards and
administrative sections may be the drafts the Commission is currently reviewing. Commissioner
Ottavelli requested that in addition to the separate sections, a complete draft also be provided to
the subcommittee when available. Mr. Sonnen added legal staff will also review the draft
ordinance.

Brief discussion of tentative June 9 and June 22 meetings followed. Next week, staff will send
the Planning Commission an e-mail in advance of the May 25 meeting outlining potential
meeting dates through August to develop an updated meeting schedule.

Brief discussion of the Planning Commission’s meeting schedule and future discussion of the
mineral lands section followed.

6. Adjourn
Chair Kohlenberg adjourned the meeting at 9:40 p.m.

Liz Kohlenberg, Chair
Tom Cole, Vice Chair

Prepared by: Cheri Lindgren, Recording Secretary, Amended June 1, 2005
Puget Sound Meeting Services
<table>
<thead>
<tr>
<th>DATE OF REQUEST</th>
<th>ISSUE/REQUEST</th>
<th>AUTHOR</th>
<th>STAFF</th>
</tr>
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<tbody>
<tr>
<td>1/26/05</td>
<td>Field Trip when begin working on Development Code Docket or at least comprehensive maps</td>
<td>Chair Kohlenberg</td>
<td>Advanced Planning Staff/N. Pritchett</td>
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<tr>
<td>1/26/05</td>
<td>Commissioner Cole has concerns for citizens and how they can find out if there are impediments as to what can be done with a piece of property</td>
<td>Commissioner Cole</td>
<td>Not identified</td>
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<tr>
<td>2/16/05</td>
<td>TCPC participate in the CFP process or comments</td>
<td>Commissioner Lyman</td>
<td>John Sonnen/Mark Swartout</td>
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<tr>
<td>2/16/05</td>
<td>Balancing GMA goals with the WEAN decision</td>
<td>TCPC</td>
<td>J. Sonnen</td>
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<tr>
<td>2/16/05</td>
<td>Requested advice on whether legal counsel should be present at public hearing</td>
<td>TCPC</td>
<td>J. Sonnen</td>
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<tr>
<td>2/16/05</td>
<td>Revised Draft Work Plan for Advance Planning</td>
<td>Commissioner Kohlenberg</td>
<td>J Sonnen</td>
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<tr>
<td>5/18/05</td>
<td>Establishment of a subcommittee to study cumulative impacts of development on steep slopes</td>
<td>Staff</td>
<td>J Sonnen</td>
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<tr>
<td>5/18/05</td>
<td>Consider special management areas the TCPC may want to evaluate for critical areas, infiltration, and development within the UGAs</td>
<td>Staff</td>
<td>J Sonnen</td>
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<tr>
<td>5/18/05</td>
<td>Requested staff to check on “aggrieved person” within the definition section of the CAO.</td>
<td>TCPC</td>
<td>J Sonnen</td>
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