THURSTON COUNTY PLANNING COMMISSION

Minutes
May 25, 2005

1. Call to Order

Chair Kohlenberg called the May 25, 2005 special meeting of the Thurston County Planning Commission to order at 7:00 p.m. Everyone provided self-introductions.

   a. Attendance

Members Present: Chair Liz Kohlenberg, Commissioners George Darkenwald, Craig Ottavelli, Liz Lyman, Peggy Paradise, and Bob Musser.
Members Absent: Tom Cole, Chris Lane, and Joyce Roper.
Staff Present: John Sonnen, Cindy Wilson, and Cheri Lindgren, Recording Secretary, Puget Sound Meeting Services.
Others: Tom Cook and Amy Ottavelli.

   b. Approval of Agenda

Commissioner Paradise moved, seconded by Commissioner Ottavelli, to approve the agenda.

Commissioner Lyman added a discussion of the April 20, 2005 meeting.

The motion to approve the agenda as amended carried.

Commissioner Lyman reported she would like to add a sentence in the minutes to reflect additional information from the April 20, 2005 meeting. After listening to the tapes from the April 20 meeting about the discussion on page 8 of the minutes, Commissioner Lyman said she specifically asked Allen Miller a question regarding best available science (BAS) and professional judgment. Commissioner Lyman said it’s important the record note that according to Mr. Miller, the professional judgment can be relied upon in absence of best available science.

The Planning Commission concurred to include the additional statements as part of the
May 25, 2005 special meeting minutes.

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

There were no public comments.

3. **Briefing/Set Hearing: Open Space Application (Moench)**  
   *Staff: Cindy Wilson*

Ms. Wilson reported John and Delores Moench requested a transfer from the Open Space-Farm and Agriculture Program to the Open Space-Open Space program in 2002. The applicant did not sign a copy of the Open Space Tax Agreement and the application was rejected. The applicant decided not to provide justification about why the signed agreement was not returned and is reapplying for the Open Space-Open Space program with the same request. The only change from the previous request is that the home site excluded at that time was .7 acres. The current minimum is one acre.

Commissioner Lyman asked if the assessment of $135,460 includes the entire parcel or excludes the one-acre under application. Ms. Wilson replied the value is for the entire parcel. Brief discussion of how the one-acre parcel would be taxed followed. Commissioner Musser explained he has agricultural property. His home sits on one acre that is taxed separately and the parcel has a separate parcel number.

In response to questions from Commissioner Ottavelli, Ms. Wilson responded the property owner followed up and initiated the new request. The property owner does not have sufficient habitat on the property to increase points provided under the Thurston County Public Benefit Rating System.

**Commissioner Lyman moved, seconded by Commissioner Ottavelli, to set a public hearing on the open space application, Case #2004106096, for June 22, 2005 at 7:05 p.m. Motion carried.**

4. **Briefing: Critical Areas – Definitions and Administrative Sections**  
   *Staff: John Sonnen*

Commissioner Lyman stated it was her understanding Ms. Wilson wanted a clear definition of “footprint.” Mr. Sonnen replied that “footprint” refers to the outside wall of a structure. Commissioner Lyman noted a definition for footprint is not included. The definition for expansion includes a reference to building footprint. She asked about including a definition. Mr. Sonnen explained when the term is used in context; it allows an existing structure to be altered within the building footprint. The draft code language indicates the footprint is the outside wall and does not include an eave or overhang. “Outside wall” could be added to the expansion definition. Ms. Wilson reported the building foundation defines the building footprint and the definition could include language clarifying the building footprint is defined as the...
outside wall at the foundation. Commissioner Lyman recommended staff should collaborate and develop an appropriate definition for “footprint” in the Critical Areas Ordinance.

Mr. Sonnen reported Commissioner Roper e-mailed her comments to staff. Mr. Sonnen said that she made several editorial revisions that he would incorporate in the next draft. She also suggested if there are terms specific to a chapter, it might be beneficial to shift the definition into the text where it is first used. The approach has been to keep the definitions separate. Commissioner Lyman asked if the definitions could be included in the definition section and repeated where it is used. Mr. Sonnen stated it would be beneficial to retain the odd terms defined in context within the draft document. If the term is used multiple times it is appropriate to retain it in the definition section. Chair Kohlenberg suggested the definition could be added the first time it’s used, but retained in the glossary as well. Mr. Sonnen replied staff can rework the definitions for specific terms where it is beneficial.

Commissioner Lyman requested replacing, "into a critical wetland area and its buffer” with ”into a critical area or their buffer” within the definition for agricultural, wetland conversion, on page 1 of the definitions. The Commission concurred with the suggestion.

Mr. Sonnen reviewed Commissioner Roper’s suggested changes.

- On page 1, definition for agriculture, eliminate primarily in the first line.

Commissioner Lyman questioned whether it is necessary to provide detailed examples. The Commission agreed adding the phrase, “including, but not limited to” when example language is used.

- On page 2, eliminate the underlined language.

Chair Kohlenberg suggested a separate definition for agriculture land of long-term commercial significance. Mr. Sonnen explained there are limited accommodations given to agriculture. The intent is to make sure any accommodation is a legitimate agriculture operation. Discussion of long-term agricultural land followed.

- On page 2, insert the word commercial between “the” and “production” in the first line of the definition for agriculture, existing and ongoing.

Discussion of the difference between “agriculture” and “agriculture, existing and ongoing” ensued. Mr. Sonnen explained existing and ongoing agriculture would be allowed to continue operating historically in the same area of a critical area or buffer. Commissioner Lyman stated the text includes more examples about agriculture uses. The examples could be moved to the agriculture definition and the difference between the two clarified. She suggested including language defining when agriculture use legally existed. Commissioner Paradise suggested a baseline for agriculture, existing, and ongoing as of the date of the adoption of the ordinance. Mr. Sonnen stated if a property owner wished to reinstate an agriculture operation following the idle timeframe, the owner must comply with all the regulations in place at that time. Five years
is the timeframe within the existing code. Ms. Roper’s concern is that the county is encouraging people to plow their land every five years just to keep it existing and ongoing. After brief discussion, Commissioners agreed to retain the second paragraph of the definition as proposed.

For purposes of the Critical Areas Ordinance, Commissioner Lyman asked if the term “commercial” is used in the same sense as the assessor based on an income threshold. Mr. Sonnen replied staff could tie that in.

- In response to Commissioner Roper and Chair Kohlenberg’s comments, Mr. Sonnen replied “AKART” is a term used in the critical aquifer recharge areas section. It is a term that does not need to be defined as it makes sense in context. The definition is not helpful. The Planning Commission concurred.

The Planning Commission agreed to add the word or between “permit;” and “any” in the third line of the definition for alteration.

Commissioner Lyman stated agriculture would utilize the application of herbicides or pesticides or any hazardous substance. By definition, it could be considered an alteration.

- Commissioner Roper’s suggestion does not pertain to activities that are authorized pursuant to the chapter through a permit. Mr. Sonnen stated the county is allowing many types of alterations. The context as it is used indicates an alteration is not allowed except as provided for as a permitted alteration.

Commissioner Lyman asked if staff considered existing and ongoing agriculture an alteration. Mr. Sonnen replied it probably is not. Commissioner Musser added the county requires property owners to take care of noxious weeds. Commissioner Lyman clarified that would be considered an alteration under the proposed definition. Mr. Sonnen explained the intent not to allow any alteration to the critical area or associated buffer except as provided for in the regulations. Commissioner Lyman questioned how “alteration” is applied in other chapters, because it appears confusing. For example, a farmer that uses herbicides or pesticides could be interpreted as “engaging in alteration.” She suggested “alteration” in a legal rather than physical sense because there is an existing and ongoing agriculture activity associated with pesticides and herbicides that are inherent in agriculture operations.

- On the fourth line from the bottom of the alteration definition, Commissioner Roper recommends deleting the example language except for the “topping.”

Chair Kohlenberg suggested adding a sentence similar to “activities such as topping that are allowed as permitted uses of ongoing agricultural operations.” Mr. Sonnen responded staff will revise the language. Commissioners agreed to delete the underlined section beginning with “Alteration includes…” and ending with “wildlife or their habitats.”

Brief discussion of the definition for accessory structure followed. Commissioner Lyman said the second sentence of the definition is confusing.
Commissioner Lyman asked whether a boathouse can store more than one boat. Brief discussion of whether the term is used in the ordinance followed. Commissioner Ottavelli suggested eliminating the term if it is not used. Otherwise, staff could rework the definition to include the storage of watercraft or something similar. The Planning Commission agreed.

In response to a question from Chair Kohlenberg, Mr. Sonnen replied staff will clarify “FIRM” used in the coastal high hazard area definition on page 4.

Commissioner Lyman referred to the definition for compensation, out of kind, and suggested integrating “function and values” into all of the “compensation” definitions. Mr. Sonnen stated “values” is a vague term which would be difficult to administer. Functions are easily definable. Commissioner Lyman said the Environmental Protection Agency (EPA) and other agencies discuss ecological functions and human values. A wetland performs a certain ecological function. However, that ecological function has a value as far as a human benefit. She asked if the state has dispensed with functions and values. Mr. Sonnen replied no. He’s suggesting the county not use values from a practical standpoint because it is administratively difficult to enforce. Discussion of quantifying and administering values followed. Commissioner Lyman said she prefers conducting additional research before eliminating the term. Mr. Sonnen added that values are not defined in the RCWs. It is not commonly understood or uniformly defined.

Chair Kohlenberg recessed the meeting from 7:52 p.m. to 8:10 p.m. to pay tribute to Peggy Paradise whose last day on the Planning Commission was today.

Mr. Sonnen replied staff will work with legal counsel to determine if the county is obligated to integrate the term “values” into the ordinance. If the county is obligated, staff will integrate the term into the code and define it based on the state’s standard. Commissioner Lyman requested adding “functions and values or function” to the compensation definitions.

Commissioner Lyman suggested adding “and associated buffers” to the conservation easement definition.

Commissioners discussed the “critical area buffer” definition. Mr. Sonnen reported staff will rework the definition to include the public safety risks associated with geologic hazards.

In response to comments from Commissioner Lyman, Mr. Sonnen replied staff will expand upon the terms “occupancy,” “structures,” and “types” referenced within the critical facilities and critical facility definitions.

Mr. Sonnen reported danger trees are referred to as hazard trees in the code. Staff will make the changes and organize them appropriately. He relayed that Commissioner Cole would like to include the words or large limb between “tree” and “with.” There is more latitude to deal with a danger tree in the danger tree section. Commissioner Cole’s intent is to address a tree that is stable but that has limbs that pose a risk. Chair Kohlenberg stated limbing is currently allowed and she doesn’t believe hazard limb needs to be defined. Commissioner Darkenwald voiced his
agreement. The Planning Commission concurred not to include the phrase as requested.

Commissioner Lyman requested deleting “substantial amounts” from the last sentence of the development definition. The Planning Commission concurred.

There was brief discussion of the emergency definition and the difference between full compliance versus full review. Mr. Sonnen suggested replacing the wording with *permit review and issuance*. The Planning Commission eliminated the word “unanticipated.”

The Planning Commission concurred to delete the essential habitat definition. Brief discussion of the definition for “exotic” followed. The Planning Commission concurred.

Commissioner Lyman said the flood or flooding definition doesn’t address groundwater flooding. Mr. Sonnen replied that groundwater flooding is specifically defined on page 9. The definition is modeled from the federal definition. Brief discussion of the floodplain, one hundred-year floodplain, and five hundred-year floodplain definitions followed. Mr. Sonnen said the five hundred-year floodplain is used in the geologic hazard areas, and it would likely be acceptable to exclude it.

Commissioner Ottavelli questioned the phrase “directly pertaining to” in the forest practices definition. He suggested the first sentence should be modified to read similar to “… conducted on or impacting forest land. It may include but is not limited to growing, harvesting, or processing timber…”

It was suggested deleting the word values from the functions and values definition if the commission decides not to refer to values in the code. Further, the definitions for functions and/or values should not be defined together.

Commissioner Lyman asked if geologists are licensed by the state. Chair Kohlenberg confirmed geologists are licensed by the state. Mr. Sonnen relayed that Commissioner Cole suggested adding geomorphologist in the geologist definition, or defining it separately. The Commission agreed to incorporate a separate definition for geomorphologist. Staff will research to determine if a geomorphologist is required to be licensed by the state.

Chair Kohlenberg expressed concern about merging the different geotechnical professionals within the definition. The regulations discuss a geotechnical professional generically. It implies someone whose expertise as a soils scientist could also undertake a technical review of the hazardous slope. She suggested defining the different professionals separately. Commissioner Paradise referred to the last sentence which states in part “… and professional engineers shall affix their signatures or seals only to plans or documents dealing with subject matter in which they are qualified by training or experience.” Mr. Sonnen indicated he will follow up with staff to break out the definitions separately.

Commissioner Ottavelli suggested changing the term “chemical” to “substance” within the hazardous materials definition and insert the word *deleterious* between “chronic” and “health”.
Commissioner Darkenwald expressed reservation about replacing “chemical” with “substance.” Commissioner Ottavelli said he would like to include non-chemical substances. Mr. Sonnen responded the broader term is acceptable. The specifics are narrowed by the WACs referred to in the draft amendments.

Commissioner Ottavelli asked about the meaning of “growing season” and “upper part” within the hydric soil definition. Mr. Sonnen confirmed staff will revise language for the definition.

Commissioner Lyman reported impervious surface doesn’t always mean a human made surface. Mr. Sonnen clarified the first definition is what is currently used. The second is an optional definition. Commissioner Ottavelli agreed with Commissioner Lyman’s statement and suggested the current definition could read in part “… or any other human-made or human-impacted surface.” Mr. Sonnen said staff wants to delete the reference to clearing and grading in the alternate definition. Staff will incorporate the best of both definitions into one definition.

Commissioners agreed to delete the important habitats and species definition, because it is specifically included in the code.

The Commission agreed that if the term “interim area” is only used once then it should be defined in place.

Commissioner Ottavelli asked about the meaning of “mass” within the landslide definition. Commissioner Ottavelli suggested replacing the words “mass movement” with “landslide” in the landslide hazard areas definition. Mr. Sonnen stated staff will rework the definition to provide clarity and will check to determine if “mass wastage” and “mass wasting” are terms that need to be included. Commissioner Lyman said the definition for interim area should be retained because it is referenced in the landslide hazard areas definition.

Chair Kohlenberg referred to the sentence, “First, the physical site where mitigation bank credits are generated by restoring, creating, enhancing, and/or preserving wetlands…” contained within the mitigation bank definition. Mr. Sonnen stated staff will rework the definition to be more general in nature. Further discussion of the mitigation bank definition ensued. Commissioner Ottavelli requested replacing “may” with “wish” in the fourth line of the definition.

Chair Kohlenberg expressed uncertainty about the definition for project area or boundary on page 16. Mr. Sonnen clarified it relates to clearing and grading limits. If the term is not used in the geologic hazard section, staff will pull the definition. Chair Kohlenberg suggested it might be preferable to indicate the project or boundary is the part of the parcel or parcels that is being built upon or altered. If the outer extents of the impacts is the intent, that’s different.

Chair Kohlenberg said the word “values” is used in the definition for qualified professional – geomorphologist. Commissioner Lyman asked about the definition because it includes a person with experience and training in fish and wildlife issues. Mr. Sonnen stated staff will rework the definition.
Commissioner Ottavelli stated the word “values” is also used in the restoration definition.

The Commission discussed the riparian habitat area definition. Chair Kohlenberg said it’s not clear that marine freshwater is excluded from aquatic systems.

The Planning Commission concurred to eliminate the definition for species of local importance because they are identified in the criteria and defined in the text.

Commissioner Ottavelli asked about “haul out site” in the definition for species, point location. Mr. Sonnen replied it refers to the area that seals use when exiting marine waters along rocky shorelines. Chair Kohlenberg suggested replacing the language with “marine mammal haul out sites” for clarity.

Commissioner Ottavelli asked whether threatened species must be native. Mr. Sonnen responded the county refers to federal and state species, which are not native to Washington. The Planning Commission agreed to strike the language “native to the State of Washington.” Commissioner Darkenwald noted “native to the State of Washington” is also included in the definition for state designated endangered, threatened, and sensitive species. The Planning Commission agreed to strike the reference in the definition. Commissioner Lyman asked if the state designates something that is not native to the State of Washington. Mr. Sonnen stated staff will review the WAC definition and rework the language as necessary.

Brief discussion of a definition for toe of marine bluff followed. Mr. Sonnen confirmed staff will double check to determine if it should be included.

Chair Kohlenberg said depending on how the definition for unstable old slide (UOS) is used, it should be noted it is the coastal zone atlas definition from the 1970s.

Related to the General Purposes, Commissioner Lyman emphasized King County and the CTED Handbook documents provide robust language in the purpose statements about preventing cumulative adverse environmental impacts on water availability and water quality, groundwater, wetlands and streams, etc. Mr. Sonnen explained each of the main chapters of the county’s proposed ordinance include purpose statements that can be expanded. He asked Commissioners to e-mail suggestions on the language as soon as possible. Staff will incorporate the changes and present a revised purpose document at the June 22, 2005 meeting.

Mr. Sonnen reviewed the purpose of the general provisions section. Chair Kohlenberg asked about the words, “minimize and mitigate” in B on page 1. Mr. Sonnen reported the language should be eliminated. Mitigation is addressed in C. A brief discussion followed.

Commissioners and staff discussed the monitoring period of up to 10 years in D on page 2.

Commissioners reviewed the Administrative Procedures section. Mr. Sonnen described how staff administers the current critical area regulations. Under the proposed ordinance, a critical area permit (CAP) is required for any project requiring county review and approval, with the...
exception of a reasonable use exception or a permit extension, etc. Staff’s preference is if the critical area permit is associated with a larger project then staff would issue a critical area permit concurrent with SEPA. The appeal period for both the CAP and SEPA would lapse prior to the Hearing Examiner’s hearing. At the request of Chair Kohlenberg, Mr. Sonnen further clarified the process proposed in the ordinance.

Chair Kohlenberg referred to page 9, B and expressed concerns that there is no SEPA review. There are items in SEPA that are not covered in the critical areas ordinance. Mr. Sonnen replied that as an example, stormwater has environmental impacts that would be picked up through SEPA. The county has stormwater regulations. A project is reviewed to comply with the stormwater regulations. SEPA is triggered only where the regulations are deficient. Chair Kohlenberg and Commissioner Lyman agreed additional time is warranted to review the administrative procedures. Chair Kohlenberg said she wants to ensure the public has an opportunity to respond during the process and that all potential impacts are addressed.

5. **Calendar**

*Who will not be attending the upcoming Planning Commission meetings?*

- June 1, 2005 – Hearing/action: Open space application. Briefing: Critical Areas – Follow Up
- June 22, 2005 – Tentative Special Meeting (Commissioners Lyman and Darkenwald unable to attend.)
- July 6, 2005 – Briefing/Set Hearing: Critical Areas Follow Up (Commissioner Ottavelli unable to attend.)

Mr. Sonnen reported the suggested tentative calendar will be provided to those members not in attendance. There is a series of mineral lands briefings that will potentially lead to a public hearing on August 3, and a worksession immediately following. The Board of County Commissioners begins consideration of the 2006 budget in November. The tentative schedule delivers the critical areas regulations to the Commissioners in September allowing them to schedule a public hearing in October. Immediately following critical areas regulations is a hearing for comprehensive plan amendments by the Planning Commission. Briefings have been scheduled in July and August. The Planning Commission should have hearings in October so the Board can act in November.

Discussion of a public hearing date and the mineral lands element followed. Commissioner Lyman stated because of the complexity of the critical areas ordinance, there has been previous discussion about scheduling two public hearings based on the topics. Mr. Sonnen replied if the public is interested in both topics, the public must attend both hearings. Commissioners and staff discussed the pros and cons of one versus two hearings, using a time limit to control the comment period, location of the hearings, hearing dates, the potential length of the hearings, the possibility of having to continue the hearing, and scheduling the hearings to begin at 6:30 p.m. and end at 10:00 p.m.
Staff will solicit by e-mail member availability for meeting attendance. Commissioner Musser has forwarded his availability to Chair Kohlenberg. She encouraged him to call staff and confirm whether he can attend upcoming meetings. If a quorum is not attained, members should be notified. Commissioner Lyman indicated her availability is questionable because she has guests arriving and is unsure of their arrival dates.

Further discussion of mineral lands followed. Mr. Sonnen suggested scheduling the initial briefing on June 15 with the Commission considering the schedule at that time. Commissioner Lyman expressed concerns about the gap between the briefing meetings. Mr. Sonnen suggested it is possible to continue discussion of mineral lands on June 22. Hopefully, the Commission can finish its review of the administrative sections on June 1. Staff is not available on July 6 to conduct a mineral lands briefing. There is time between the release of the critical areas regulations and the actual public hearing to consider the mineral lands element.

Commissioner Lyman relayed it is her understanding the Board of County Commissioners is interested in concluding mineral lands by the end of the year. Chair Kohlenberg expressed concerns that the first mineral lands briefing is on June 15 with the second to occur on July 13. Clear, introductory material is critical. Following July 13, another three-week gap occurs.

Commissioner Lyman asked if the comprehensive plan amendments could be shifted from August to early September. Mr. Sonnen replied the amendments are not extensive. The elements are under a dictate from the state for the county to be in compliance with the Growth Management Act (GMA). Chair Kohlenberg suggested rescheduling the comprehensive plan amendments to the fall. It would make more sense to schedule mineral lands for July 13, July 20, and August 3. Consecutive meetings are more beneficial. The Commission would still like a mineral lands briefing on June 15, 2005. Commissioners discussed moving the hearing for mineral lands to August 10 or August 24. Mr. Sonnen responded staff needs at least two weeks between the hearing and a work session to consider input and integrate any changes in the documents. Commissioners agreed to review the tentative calendar and forward suggestions to staff.

6. **Adjourn**

Chair Kohlenberg adjourned the meeting at 9:47 p.m.

______________________________
Liz Kohlenberg, Chair
Tom Cole, Vice Chair

Prepared by: Cheri Lindgren, Recording Secretary, amended June 15, 2005
Puget Sound Meeting Services
<table>
<thead>
<tr>
<th>DATE OF REQUEST</th>
<th>ISSUE/REQUEST</th>
<th>AUTHOR</th>
<th>STAFF</th>
</tr>
</thead>
<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>
</tr>
<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>
</tr>
<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>
</tr>
<tr>
<td>2/16/05</td>
<td>Balancing GMA goals with the WEAN decision</td>
<td>TCPC</td>
<td>J. Sonnen</td>
</tr>
<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>
</tr>
<tr>
<td>2/16/05</td>
<td>Revised Draft Work Plan for Advance Planning</td>
<td>Commissioner Kohlenberg</td>
<td>J Sonnen</td>
</tr>
<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>
</tr>
<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>
</tr>
<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>
</tr>
<tr>
<td>5/25/05</td>
<td>The Commission, after review of the Definitions and Administrative sections of the CAO requested numerous changes, deletions, and additions to various provisions within the sections.</td>
<td>TCPC</td>
<td>J Sonnen</td>
</tr>
<tr>
<td>5/25/05</td>
<td>Commissioners agreed to review the tentative calendar of future meetings and forward suggestions to staff.</td>
<td>TCPC</td>
<td>J Sonnen</td>
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</tbody>
</table>