THURSTON COUNTY PLANNING COMMISSION

Minutes
June 1, 2005

1. **Call to Order**

Chair Kohlenberg called the regular meeting of the Thurston County Planning Commission to order at 7:00 p.m. Everyone present provided self-introductions.

a. **Attendance**

Members Present: Liz Kohlenberg, Liz Lyman, Chris Lane, Bob Musser, Craig Ottavelli, and Joyce Roper

Members Absent: George Darkenwald and Tom Cole

Staff Present: John Sonnen, Nancy Pritchett, Jennifer Hayes, and Valerie Gow, Recording Secretary, Puget Sound Meeting Services

b. **Approval of Agenda**

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

2. **Public Communications.**

There were no public comments.

3. **Approval of Minutes and Acceptance of Tapes from May 18, 2005.**

Commissioner Ottavelli moved, seconded by Commissioner Musser to approve the minutes of May 18, 2005 and accept the tapes as the official record.

The following corrections were requested to the minutes of May 18, 2005.
4. Public Hearing/Action: Open Space Application
   
   Ms. Hayes reported the application concerns an Open Space-Open Space application from Carolyn Dobbs and Russ Fox. The site consists of 15 acres and qualifies for a 70% reduction in market value. Staff has received no public comments.

   Chair Kohlenberg opened the public hearing at 7:06 p.m.

   There being no public comment, Chair Kohlenberg closed the public hearing at 7:06 p.m.

   Commissioner Ottavelli moved, seconded by Commissioner Musser, to recommend approval for the classification of 15 acres owned by Carolyn Dobbs and Russ Fox as open space for current use assessment with a 70% reduction in valuation, conditioned on the applicants’ following the recommendations of their wildlife habitat enhancement plan and best management practices according to a land conservation plan. Motion carried.

5. Briefing/Set Hearing: Open Space Application (Dempsey)
   
   Commissioner Lyman moved, seconded by Commissioner Ottavelli, to schedule a public hearing for the open space classification application from Michelle and Danaher Dempsey, Case #2005100543, on July 6 or July 13, 2005 at 7:05 p.m., dependent upon achieving a quorum for the July 6 meeting. Motion carried.

6. Briefing: Critical Areas Administrative Procedures and Important Habitat and Species
   
   The Planning Commission began review of the Administrative Procedures. Mr. Sonnen explained how critical area regulations are currently applied to subdivision applications. If a small-scale project does not trigger State Environmental Policy Act (SEPA) review (less than 4 lots), staff uses a critical area administrative review process. Currently, if there is a SEPA determination, any conditions that are not covered by other regulations in the environmental realm are addressed through conditions of the mitigated SEPA and Environmental Impact Statement (EIS). The appeal period expires prior to the hearing examiner hearing. Staff is
suggesting a critical area permit should be required for any project subject to county review and approval, with the exception of a reasonable use exception, emergency responses, or permit extensions. If SEPA is triggered, the decisions for both SEPA and CAP would be mailed simultaneously to the distribution list and the appeal periods would run concurrently. SEPA would pick up more of the cumulative impacts that extend beyond the property that are not picked up with the critical area regulations. The hearing examiner can consider all comments received during the appeal period.

The following documents the Commission’s discussion and/or recommendations pertaining to the Administrative Procedures.

- The language in B, State Environmental Policy Act (SEPA) on page 9 should be clarified or deleted if appropriate.

- The Commission concurred to delete the second paragraph under 3 on page 8. A brief discussion of channel migration hazard areas ensued.

- Mr. Sonnen reported 17.15.420, Application of Conflicting Requirements beginning on page 9, is not written exactly as staff intended. The language should indicate that all uses listed in table 4-1, except emergencies, reasonable use exceptions, and permit extensions require a critical area permit. Table 4-1 should be amended accordingly. A brief discussion of “ministerial process” referred to in Table 4 followed. It was agreed to cross-reference Section 20.60.015 in the definitions rather than including definitions for ministerial and administrative in the administrative section.

- Commissioners discussed A, Submittal Requirements, 1, on page 8. It appears the county is providing blanket authority to waive submittal of reports. Mr. Sonnen explained the section permits the approval authority to waive submittal requirements that are not pertinent to a particular project. The proposed language can be reworded to say if reports are not applicable, it is noted as such. It was suggested it would be helpful to applicants and the county to have a checklist or decision tree.

- The Commission agreed that B, Conditions of Approval on page 9, should include language that the approval authority has the ability to deny as well as condition an approval.

- Mr. Sonnen said staff will incorporate language stating public safety trumps other concerns when balancing critical area regulations against another in A, Review in Conjunction with Related Applications, on page 9. The Commission agreed including Type II review process in addition to the Type III process and that “consistent with procedures for SEPA determination” be deleted from the last sentence.

- Commissioners agreed C 1, Prohibited uses, read similar to “Uses or activities prohibited by this chapter shall be prohibited even if allowed by any other county regulation or plan.” A brief discussion of 3, Compliance impossible, ensued. It was agreed to replace
“and any other county” with “together with any other county.” Staff will revise the remaining language within the section.

- Commissioners discussed A 1, Rejection of an application, on page 10. It was suggested to include language addressing faulty analysis to read similar to “Inconsistencies between the submitted materials and observable data and accepted scientific or technical criteria, or flawed analytic procedures that are not consistent with accepted practice.” It was also requested to delete the second “and” in the sentence.

- The Commission questioned whether critical area buffer or riparian habitat area width reduction or reconfiguration listed on Table 4-1 should be a Type II review process type rather than Type I. Mr. Sonnen agreed. This is also the case for stream channel migration map approval or amendment and high ground water flood hazard (HGWHA) map amendment. The Commission agreed that stream channel migration map approval or amendment, delineation of HGWHA, NDZ and RDZ per Subsection 17.15.730 E, and permit extensions should be appealable to the Board of County Commissioners.

- The Commission discussed the authorized activity period section. It was requested language providing for denial of a permit extension should be included. Mr. Sonnen stated language should say the hearing examiner may approve, deny, or condition the permit extension. Significant discussion of permit duration and extension ensued. The Commission expressed concerns about abuses associated with incremental extensions. The Commission agreed to strike the word “significantly” under Permit Extension.

- The Commission discussed review criteria 1 a on page 14 pertaining to reasonable use exceptions for public facilities. Mr. Sonnen explained the County Road Department believes there could be cases where expansion into a wetland may be necessary to accommodate a needed road. The Commission commented that provision had been made to the wetland section to allow road work for public safety purposes, but not for capacity. The Commission concurred to strike the paragraph.

- Discussion of B 1 b on page 14 and reasonable use of property ensued. Case law dealing with reasonable use focuses on the construction of a single-family home on the property. Mr. Sonnen drew the Commission’s attention to D, Expansion of existing structures, on page 15, which states in part “… In no case shall any expansion of a single family dwelling authorized pursuant to this section result in a total building footprint (outside wall) exceeding 1,500 square feet.” The Commission agreed to retain the 1,500 square feet footprint figure and requested staff take the same approach for new structures. A discussion of the total area of existing and allowed development accommodating the dwelling, landscaping, accessory structures, and related appurtenances within a critical area and buffer shall not exceed 5,000 square feet followed. Mr. Sonnen said another approach is to apply a maximum percentage of lot coverage. The Commission concurred to retain the language for the public hearing draft and revisit the issue following public comment.
• The Committee agreed to strike *absent a reasonable use exception and or other relevant factors* from B, Review Criteria, 1 b, on page 14.

• The Wildlife section was discussed. Commissioners commented the county’s reasonable use exception cannot override the Federal Endangered Species Act. Mr. Sonnen suggested adding wording similar to “documented habitat support.” The Commission concurred to delete “continued existence of” from the first sentence. Staff will rework the language.

• The Planning Commission agreed to retain the original language for #4, Impacts on other property, on page 14.

• The Commission agreed to omit the example language in #5, Public health, safety and welfare.

• The Commission agreed to replace the word “may” with “shall” in the last sentence of E, Conditional Approval, on page 15.

• The Planning Commission agreed to retain the crossed-out language addressing Property assessment relief on page 15.

• Staff will double-check whether the compliance officer can issue a civil infraction, and rework wording of the first sentence in A, Response to Violations, on page 16.

• The Commission agreed to retain the words “which is” in A 1, Stop work order, on page 16.

• A discussion of restoration plan ensued. Mr. Sonnen explained there are penalties that will compel a property owner to seek approval of a restoration plan. The Commission asked that a cross-reference to Section 20.60.055 dealing with civil infractions be included in the restoration order language.

• A discussion of some of the crossed-out language that is noted as addressed in other sections followed. Staff will review the language on page 15 in the Draft Amendments to Administration, Fees, Violations and Penalties (Chapter 20.60) that addresses Type I and IV and Type II and III Applications respectively. Editorial changes will be considered during the editorial committee review.

• An error in Table 2 on page 6 related to site-specific (quasi-judicial) rezones was noted. It says the Planning Commission is the appeal authority, which it is not. On page 7, the Planning Commission is the recommendation authority for designation of future mineral resource lands.

Mr. Sonnen referred to the “Draft Important Wildlife Habitats and Species” section. The “shaded” purpose statements on the first page are new, as well as the ponds section that begins
The Planning Commission and staff reviewed an updated tentative calendar. Mr. Sonnen reported the goal is to have all aspects related to the critical areas completed by July 6. Staff proposes August 17 and 18 as tentative hearing dates. The Commission will have an opportunity to further discuss Important Wildlife Habitats and Species at the June 22 special meeting. A discussion of the mineral lands section and issues scheduled from September to the end of the year followed. Mr. Sonnen said the priorities might have to be reassessed following the outcome of the Lamird Project.

Commissioner Lyman suggested a single Saturday worksession for critical areas follow up in place of the three proposed meetings. Staff and members agreed to a tentative worksession for September 10, 2005. The regular meeting scheduled for September 7, 2005 will be cancelled.

7. **Staff Updates**

Staff and the Planning Commission discussed the style of the minutes and digital recording. The Commission agreed to a more summarized, bulleted approach to the minutes format. Staff will look into the possibility of digital recording.

8. **Calendar**

*Who will attend the following upcoming Planning Commission meetings?*

**June 15, 2005** – Briefing: Mineral Lands (Commissioner Roper unable to attend, Commissioner Lyman questionable)

**June 22, 2005** – Hearing: open space: Briefing: Critical Areas follow up (Commissioners Kohlenberg, Lyman, and Darkenwald unable to attend)

**July 6, 2005** – Briefing/Set Hearing: Critical Areas follow up (Commissioner Roper questionable, Commissioner Ottavelli unable to attend)

**August 3, 2005** – Hearing/Worksession: Mineral Lands (Commissioners Kohlenberg, Lane, and Musser unable to attend)

**NOTE:** No additional Parking Lot Issues were added at the meeting.

9. **Adjourn**

Chair Kohlenberg adjourned the meeting at 9:43 p.m.

Liz Kohlenberg, Chair