THURSTON COUNTY PLANNING COMMISSION

Minutes
June 22, 2005

1. Call to Order

Chair Kohlenberg called the June 22, 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 Tom Cole, Chris Lane, Liz Lyman, Bob Musser, Craig Ottavelli, and Joyce Roper
Members Absent: George Darkenwald
Staff Present: John Sonnen, Jennifer Hayes, Nancy Pritchett, Cindy Wilson, and Valerie Gow, Recording Secretary, Puget Sound Meeting Services

b. Approval of Agenda

Commissioner Cole moved, seconded by Commissioner Musser, to approve the agenda as presented. Motion carried.

2. Public Hearing/Action: Open Space Application

Staff: Cindy Wilson

Ms. Wilson reported the Commission previously received a briefing on May 25, 2005.

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

Ms. Wilson reported the applicants, John and Delores Moench, have requested a transfer from the Open Space-Farm and Agriculture Program to the Open Space-Open Space Program. Staff requests the Commission forward a favorable recommendation to the County Board of Commissioners.

There being no public testimony, Chair Kohlenberg closed the public hearing at 7:07 p.m.
Commissioner Cole moved, seconded by Commissioner Lyman, to recommend the County Board of Commissioners approve the Open Space Application (Moench). Motion carried.

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

**Howard Glastetter, 11110 Kuhlman Road SE, Olympia**, reported he substituted for Tom Cook on the Mineral Lands Task Force several times as well as attending all the meetings with the exception of one. One of the issues the task force did not address is mine reclamation and accessory use that prevents the mine from being reclaimed. He said he lives in Nisqually Valley where the State Growth Management Act (GMA) of 1990 was more or less addressed by the 1992 Thurston County Nisqually Subarea Plan. The plan dealt with commercial development of the gravel mine that dominated the area in 1992. There are supposed to be rules that cover mineral activity and mine reclamation. The rules that are included in the Nisqually Plan are not followed. He asked if the rules are not followed within a subarea plan, then where will the rules be followed.

Mr. Glastetter cited several rules within the plan regarding goals that prohibit large-scale commercial development within the Nisqually Valley recognizing existing commercial activities and designated commercial areas. Section E1 states, “Prohibit the use of mined out gravel pits for industrial use.” When the pit is mined, it should not be continued as an industrial site.

Section E5 cites, “These activities shall be discontinued once reclamation of the pit is completed in accordance with the Washington State Department of Natural Resource (DNR) standards.” Section E6 cites, “Evaluate all allowable special uses within a one to five zone to determine if they will be compatible with agricultural/pastoral character of the Nisqually Valley.” The zones are used to allow industry within an agriculture area. Mr. Glastetter said his question pertains to whether the County will enforce the goals that are outlined on pages 20 and 21 of the plan. The GMA and the county’s 1992 response are designed to protect rural areas not exploit them. He said the goal is questionable since Lakeside Industries is arriving in the valley at a time when the gravel pit is nearly mined out.

**Sue Danver, 7106 Foothill Loop SW, Olympia**, said she also attended the Mineral Task Force meetings as a participant. She noted she has not seen a draft of the plan. Regarding gravel mines, in the construction of deep gravel lakes, there is scientific consensus that there is a phenomenon called the “lake effect.” When there is a gravel mine lake, up gradient groundwater will flow downward and down gradient water will flow upward. From various maps and listening to experts speak on the matter, the changes can occur in a two to five foot drop or rise within a 300 foot distance from the lake, and as far as 1,000 feet from the lake, there is a one to three foot drop or rise. Thurston County is concerned about wells and they account for the affect on well impacts. She asked whether the Critical Areas Ordinance with respect to wetlands or the mining ordinance accounted for the phenomenon. The issue is serious as plants within a specific depth within a wetland might be affected by any rise or fall in groundwater. There is also the possibility of doubling the effect.

Ms. Danver referred to several reports from the Department of Ecology:
• Wetlands in Washington, Synthesis of the Science
• A new textbook that speaks to fluctuations in wetlands (Ms. Danver reported she will notify the Commission about the title of the book)

Ms. Danver commented on her concerns about asphalt air. She prepared a report for the Mineral Task Force but did not include a paper by Mace Barren, PhD, editor of Environmental Toxicology and Chemistry. He holds degrees in Fisheries Science and a PhD in Pharmacology/Toxicology, and has published 47 peer review papers and articles. The paper is about the impacts of asphalt plants and gravel mines. She noted that the Hearing Examiner stated that some small amounts of some of the toxics in asphalt air can cause impacts. She suggested the Commission read the material as she is concerned about asphalt air emissions.

   Staff: John Sonnen and Nancy Pritchett

Mr. Sonnen briefed the Commission on miscellaneous amendments that are inappropriately included in the critical areas regulations. Several provisions are included in the regulations that do not pertain to critical areas and can be dealt with more effectively in another section of the code. Prior to critical area regulations, environmental regulations were in place prior to the state’s mandate for critical areas. There are provisions that pertain to the area that do not follow the state’s mandate of what constitutes a critical area.

The first provision concerns containment areas that provides for the delineation of areas infested with noxious weeds. The provision speaks to removal, containment, and disposal of noxious weeds. Staff suggests taking the provision and shifting it to a new chapter (Chapter 17.30) within Title 17, Environment. Title 17 currently includes Critical Areas Regulations, SEPA Regulations, Mineral Extraction Code, Forest Practices Code, and a Stormwater issues.

Mr. Sonnen responded to a question about the regulations overruling zoning changes and other code changes. He noted only items pertaining to critical areas should be included in the critical areas regulations.

The second issue pertains to density provisions. Mr. Sonnen provided information about density calculations on property containing critical areas. Minimum density calculations, for the most part, exclude the non-buildable areas of the site. All of the sections pertaining to minimum density are included in the zoning code along with other reasons for deviating from the standard densities required by the code. The exception pertains to calculating the maximum density. It is not consistently applied within the UGAs by any of the cities. Staff recommends that provisions within the critical area regulations that deal with zoning densities be shifted to the zoning districts along with all other provisions that pertain to calculations of density.

By agreement between the County and the cities of Lacey, Olympia, and Tumwater within the
growth areas, the County’s critical areas regulations apply. However, the agreement also provides that the County will use the jurisdiction’s density calculations and how each jurisdiction treats density calculations on property containing critical areas. Moving the provision out of the critical areas regulations will result in no substantive change. Basically, critical areas regulations protect the critical areas and establish the buffers while the zoning code establishes the number of housing units per acre and the standards for any deviation from minimum or maximum densities.

Discussion ensued about the impact of the proposed change. Mr. Sonnen clarified that the critical areas regulations apply to critical areas and buffers within the urban growth area. Regulations that do not apply to the urban growth area are the cities’ density standards.

Another change pertains to miscellaneous provisions under the Nisqually Overlay District. Currently, the overlay district is included in the critical areas regulations. The geologic hazard section also addresses those aspects of the district that pertain to slope stability. Under section A (page 5), it excludes residential development from areas contained within a buffer and it provides for some density transfer. Under section C (page 5), the provision allows for some flexibility for preexisting development. There is concern that it is not scientifically based. The provision also requires protection of the stability of the bluff as well as maintaining the visual integrity of the hillside, which has nothing to do with critical areas. The issue is whether to remove those provisions that do not pertain to critical areas and not based on science so as not to jeopardize the critical areas regulations or whether the provisions should be moved as a whole and retained as an overlay district. Staff recommends moving the entire section into the zoning code as an overlay district. Mr. Sonnen acknowledged the concern that moving the provisions from the regulations might result in less protection because critical areas regulations trump other codes. However, only those aspects that deal with critical areas should be trumping. Those aspects are dealt with through the Geologic Hazards section.

Commission discussion ensued with some concerns addressed about density transfer and the substantial amount of density in critical areas. It was noted that cities are not as vigilant in protecting critical areas from cumulative impacts as the County has been. Mr. Sonnen noted the Commission could recommend striking the density transfer in section A as part of the County’s regulations.

Discussion points shared by the Commission and staff included:

- A preference that the County better control the density in buffers.
- For purposes of the public hearing draft, a suggestion was conveyed to retain section A (page 5).
- If the Nisqually Hillside Overlay District is retained in the critical areas regulations, there should be a scientific basis for the standards. It was noted the Commission never discussed the Nisqually bluff and that the Commission assumed the underlying density was one unit to five acres.
- Uncertainty about where the density transfer issue should be placed especially if it is not scientifically based.
- Concern that after annexation, a jurisdiction can change the density regardless of
what has previously been established by the County.

- It is administratively challenging to deal with density as each urban growth area is different. The jurisdictions all have different methods for calculating densities.
- Consider shifting the entire section to the zoning code, and at a later date review the zoning codes and all density calculations.
- Concern that if the density transfer is moved to the zoning code it could be an inconsistent change to the zoning code that is not recognized.
- Amendments to the zoning code will occur concurrently with the adoption of the Critical Areas Ordinance. The changes will move forward as a package. The County’s code amendment docket identified proposed zoning code amendments for the County and north County cities in coordination with critical area revisions. Any further substantive review of density transfers would require a separate work program.
- Concern was expressed that although the change makes sense from an administrative/regulatory point of view, implementation may generate questions about the policy.
- Chair Kohlenberg pointed out that this issue has an immediate, practical impact on the Nisqually area since the densities and their location in the Critical Areas Ordinance are part of a recent Hearing Examiner decision.

The majority of the Commission agreed with staff’s recommendation to move the section for the public hearing draft.

Mr. Sonnen reviewed the last miscellaneous change concerning garages at Summit Lake. Mr. Sonnen described why the accommodation was included in the code to allow garages to be placed on a lot immediately upslope from the existing development. The change was included because the critical areas regulations were under review at the time. Staff recommends transferring the regulations to Chapter 20.34 – Accessory Uses and Structures.

Commissioners and staff discussed why the regulations were included in the critical areas ordinance. It was noted there are many lakes in the county and the provision is the only one concerning lakes that is included in the critical areas regulations. Other development around other lakes is not included in the critical areas ordinance.

Mr. Sonnen responded to questions about the proposed changes to the provisions. The changes are not substantive but clean up the language prior to transferring to the other section. Concern was expressed about changing the language prior to transferring the section. Mr. Sonnen agreed with retaining the existing language and transferring the provisions to Chapter 20.34.

It was noted that on page 2, “infestated” is not a word.

Ms. Pritchett reported the last draft of Geologic Hazards was sent to Tim Walsh, Garry Squires, and Steve Palmer for review and comment. Garry Squires provided feedback. Mr. Squires recommends deleting language that reads, “Hold harmless clauses, disclaimers, and limitations not allowed to be included neither expressly nor implied, with a geological assessment.”
Mr. Squires cites the reason as most geologist and engineers would not be able to undertake a project without a declaimer. Ms. Pritchett reported she contacted the City of Edgewood as the City included the same language. However, the City has since amended the critical areas regulations and removed the language due to problems with engineers and geotechnical working in the jurisdiction.

Discussion ensued on protecting the public interest because the elimination of the language removes the risk to the experts. However, there is an added provision for the county to request a third party review at the applicant’s expense.

A request was made to identify “certain geologists and geologic engineers” who refuse to work in Edgewood because they claimed their liability insurance carrier would not allow them to issue a letter or report without the hold harmless clause. It was noted that people who are willing to work with a hold harmless clause are individuals who are willing to work without errors and omissions and malpractice insurance.

Commissioners agreed to remove the clause but also add some direction to the third party review process. Ms. Pritchett reviewed current requirements for reports from third party professionals. Chair Kohlenberg suggested including questions that should be addressed, such as how much additional stormwater will be introduced into the slopes by the proposed development. She cited several other questions to include.

Commissioners agreed with the suggestion for Chair Kohlenberg to work with staff and draft some questions to include as part of the report requirements.

Ms. Pritchett reported Mr. Squires also expressed concerns that there may be projects requiring a level of detail that may not be warranted. She asked for consideration of staff adding language to afford staff some flexibility to waive certain requirements if the level of review can be substantiated.

The Commission agreed with not making any changes to the language.

The Commission agreed to review the remaining comments at its July 6 meeting.

Mr. Sonnen advised that any revisions Commissioners may have should be submitted to staff by June 29. Additionally, for the editing committee, Commissioners should also submit any changes as soon as possible.

5. **Briefing: Mineral Lands**

*Staff: Jennifer Hayes*

Commissioner Ottavelli requested consideration for touring an extraction operation to attain a better visual sense of a working mineral extraction operation. Ms. Hayes said she will relay the request to local operators.

Ms. Hayes referred to the updated draft, which incorporates requests concerning formatting the alternatives and makes clarifications per Planning Commission direction.
Ms. Hayes addressed outstanding issues from the previous review. The first question concerned the number of mines less than five acres located within the county. Currently, there are six active mines that are less than five acres.

Ms. Hayes referred to test 2, which is a calculation of the percentage of parcels that must be larger than 5 acres in size that are located within 1,000 feet of a mine. The intent is not to have too many properties of small acreage because parcels smaller than five acres will likely be used for residential purposes whereas parcels larger than five acres could be used for other rural uses. Ms. Hayes said she clarified the language on page 2 within the new draft for test 2, columns A, B, & C.

Ms. Hayes said she shared the Commission’s comments with the County’s GIS Department about an overlay district for mineral resources and proactively identifying sites for mineral lands for the future. Staff indicates that even with a detailed inventory that DNR could provide, it will still be an estimate of where quality mineral resources are located. Until exploratory work is completed by a mining company, for example, it’s also not possible to document the exact mineral quality. Assumptions about the location of quality sites may be true today but may change as time progresses because of how the resource is utilized and resource supply issues. The alternate procedure for designation enables operators to identify quality sites and apply for designation.

Ms. Hayes referred to questions about impacts to adjacent properties (critical areas). Impacts to adjacent properties are covered by the State Environmental Protection Act (SEPA). At the permitting stage, SEPA covers many conditions and requires many studies. SEPA review undertaken prior to a specific project is a non-project SEPA and is very abbreviated over site specific SEPAs applied when permitting the mine. The designation criteria based on draft restrictions is be more intense and would capture concerns about impacts to adjacent properties. It is difficult to consider these impacts at the designation stage; it difficult to guess what type of facilities will eventually be developed and the type of equipment used.

Ms. Hayes referred to the question on the timing of the reclamation process and noted the information is still pending from the state. She cited some examples of previous reclamation projects. If the mine no longer meets the criteria of having significant activity (which is defined in the Mineral Extraction Code) then the use is expired. All accessory uses are tied to the extraction activity and must cease when the primary activity ceases or the permit expires or is revoked. Asphalt operations can be considered an accessory to a gravel mine because they use gravel in the operation.

Commissioners discussed recycled asphalt and whether it must be accessory to a gravel mine. Ms. Hayes said she will obtain a more definitive answer about whether new gravel resources are used from the mine in recycling operations.

Ms. Hayes reviewed the regulation and timeline for mines to remain dormant without losing its designated status.

Ms. Hayes advised that DNR provides a guide for best management practices for reclamation on its
website.

Ms. Hayes referred to critical areas and mineral lands designation. After review of the WAC, if two or more land use designations apply to a parcel or portion of a parcel, both or all designations shall be made.

Commissioners and staff began the review of section 3 Proximity to critical areas (page 3). Ms. Hayes reviewed options A-D. The question is what level of information the County will require if an operator applies for a comprehensive plan amendment to designate a parcel as mineral lands. Commissioners and staff discussed whether the owner of the land or the operator/developer applies for the designation. Operators may lease or have an option on the land, but landowners apply. Ms. Hayes advised that the question has not been an issue in the past.

Commissioners revisited the issue of creating a map of county designated resource lands. Discussion included issues pertaining to an applicant driven designation process versus a mapping process and how many years of supply will be designated. Ms. Hayes raised a caution about overlay zones as they can result in an adverse reaction by property owners who may perceive that their land is being targeted. Another dilemma was offered that if the process is applicant driven, there could be a situation where no applicants apply. Ms. Hayes advised the county has many mines that are active. If proper planning for the future includes designating mineral lands, an overlay district could be considered demonstrating an initial analysis has been undertaken for desired resource lands. With either process, the Commission must still establish the criteria for proximity to critical areas. Commissioners discussed the pros and cons for designating mineral resource lands.

Ms. Hayes provided additional clarity about language associated with section 3 proximity to critical areas. Ms. Hayes said she will prepare a countywide map to include all draft layers from the critical areas regulations in addition to other criteria to assist the Commission in its discussion.

Commissioners agreed at this time not to send the current draft to the task force. Commissioners were asked to send specific questions to Ms. Hayes prior to the next meeting.

6. Staff Updates

There were no staff updates.

7. Calendar

Who will not attend the following upcoming Planning Commission meetings?

July 6, 2005 – Briefing: Critical Areas follow up/set hearing date: (Commissioner Ottavelli & Roper unable to attend)
July 20, 2005 – Cancelled
August 2 or 3, 2005 – (Commissioners Kohlenberg, Cole, Lane, and Musser unable to attend on August 3; Commissioners Cole, Kohlenberg, and Musser unable to attend August 2)
Mr. Sonnen said he will verify the August meeting date by e-mail to Commissioners.

NOTE: No additional Parking Lot issues were added during the meeting.

7. Adjourn

Chair Kohlenberg adjourned the meeting at 9:36 p.m.

Prepared by Valerie Gow, Recording Secretary, Amended July 6, 2005
Puget Sound Meeting Services
<table>
<thead>
<tr>
<th>DATE OF REQUEST</th>
<th>ISSUE/REQUEST</th>
<th>AUTHOR</th>
<th>STAFF</th>
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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>
</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>
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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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<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>
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</table>
5/25/05  Commissioners agreed to review the tentative calendar of future meetings and forward suggestions to staff

TCPC  J Sonnen

6/15/05  Staff is to provide the following information at the Commission’s next briefing:

- The number of mine sites that are currently less than five acres in size.
- Data from the state related to the timeframe an applicant has to complete the reclamation process.

A countywide map showing available land for mineral purposes after taking critical areas and other overlays into consideration

TCPC  Staff

6/15/05  Staff will present examples of how the test has been applied, and rework the language to clarify how it is measured at the next briefing on Mineral Lands

TCPC  Staff

6/15/05  Staff requested the Planning Commission review the draft ordinance, the Mineral Extraction Code, and consider the critical areas designation criteria. Staff will e-mail the “homework assignment” to absent members

Staff  TCPC

6/15/05  The Planning Commission agreed to send the final draft to the task force for review

TCPC  Staff

6/15/05  The Planning Commission requested alternative language to pick from should be shown in a “box” in the draft document.

TCPC  Staff

6/22/05  A request was made to identify “certain geologists and geologic engineers” who refuse to work in Edgewood because they claimed their liability insurance carrier would not allow them to issue a letter or report without the hold harmless clause.

Commissioner  N. Pritchett
Lyman

6/22/05  Third Party Review report should include questions that should be addressed, such as how much additional stormwater will be introduced into the slopes by the proposed development. Chair Kohlenberg agreed to work with staff and

Chair  N. Pritchett
Kohlenberg

Thurston County Planning Commission
June 22, 2005 Special Meeting
<table>
<thead>
<tr>
<th>Date</th>
<th>Task</th>
<th>Responsible Party</th>
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<tbody>
<tr>
<td>6/22/05</td>
<td>Schedule a tour of an extraction operation to attain a better visual sense of a working mineral extraction operation.</td>
<td>Commissioner J. Hayes, Ottavelli</td>
</tr>
<tr>
<td>6/22/05</td>
<td>Obtain a more definitive answer about whether gravel resources are used from the mine in recycling operations.</td>
<td>Commission J. Hayes</td>
</tr>
<tr>
<td>6/22/05</td>
<td>Prepare a countywide map to include all draft layers from the critical areas regulations in addition to other criteria to assist the Commission in its discussion.</td>
<td>J. Hayes, J. Hayes</td>
</tr>
<tr>
<td>6/22/05</td>
<td>Verify first August meeting date by e-mail to Commissioners.</td>
<td>Commission J. Sonnen</td>
</tr>
<tr>
<td>6/22/05</td>
<td>The Planning Commission agreed not to send the final draft of Mineral Lands to the task force for review</td>
<td>TCPC Staff</td>
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</tbody>
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