THURSTON COUNTY PLANNING COMMISSION

Minutes
February 1, 2006

1. Call to Order

Chair Roper called the February 1, 2006, regular meeting of the Thurston County Planning Commission to order at 7:03 p.m. Commissioners provided self-introductions.

   a. Attendance

   Members Present: Chair Joyce Roper, Commissioners Tom Cole, Chris Lane, Liz Lyman, Bob Musser, Craig Ottavelli, and Rhenda Strub.
   Members Absent: Liz Kohlenberg.
   Staff Present: John Sonnen and Cheri Lindgren, Recording Secretary, Puget Sound Meeting Services.

   b. Approval of Agenda

   Commissioner Ottavelli moved, seconded by Commissioner Strub, to approve a modified agenda: move 2006 Draft Work Program, Staff Updates, and Calendar before Critical Areas – Identify Information Needs. Motion carried.

2. Public Communications (Not associated with topics for which public hearings have been held.)

There was no public communication.

3. 2006 Draft Work Program
(Staff: John Sonnen)

Mr. Sonnen reported the County received a letter from the Western Washington Growth Management Hearings Board (WWGMHB) approving the County’s request for a time extension for rural rezoning and LAMIRDS to November 2006, and if necessary, the urban growth area (UGA) resizing to February 2007. For agricultural lands designation criteria, staff believes only
an amendment to the policies for the designation criteria is required. At the hearing, the WWGMHB did not indicate that Futurewise made a compelling case for designation of additional long term agricultural lands. Subsequent to that, Futurewise filed a motion suggesting the County must apply the designation criteria for agricultural lands in order to achieve consistency within the comprehensive plan. The County is required to submit a work program for agricultural lands to the WWGMHB by February 28, 2006. A hearing will follow with a decision. The WWGMHB commended the Board of County Commissioners (BoCC) for acting promptly and the WWGMHB believes the work program is reasonable. Staff will work with legal counsel regarding an appropriate response to Futurewise’s motion.

Mr. Sonnen said the BoCC will complete its review of the proposed comprehensive plan amendments the afternoon of February 2, 2006 at 2:00 p.m. Staff is recruiting interns to assist in completing the proposed amendments and critical areas work this year. Staff suggested deferring the amendments beginning on page 4 of Attachment 1, Draft SUMMARY – 2006/2007 Preliminary Comprehensive Plan Docket, PROPOSED COMPREHENSIVE PLAN AMENDMENTS to 2007. At the BoCC’s meeting earlier in the day, many French Loop residents attended and were interested in having their neighborhood (he pointed out the vicinity on a display map) either removed from the growth area or rezone the area to a lower density. The Olympia City Council indicated it would participate in the request if the County took the lead. The BoCC expressed an interest in considering removal of the French Loop area from the UGA out of sequence, which is a concern from a workload standpoint during the next six months. Mr. Sonnen said staff prefers completing the analysis, determine any excess capacity, and then hold neighborhood meetings and make adjustments to the UGAs at that time.

Commissioner Lyman asked whether it is possible to remove it from the UGA if there is sufficient building capacity in the Green Cove basin and French Loop areas. Mr. Sonnen replied Olympia is aware Green Cove is under consideration and does not want it removed from its UGA. Olympia asked the County to look at French Loop Road for possible removal from the UGA. A brief dialogue related to the French Loop neighborhood undertaking some of the public outreach work ensued. Mr. Sonnen recommended against that type of approach. Staff will recommend deferring the matter to later in the year and following the standard hearing process. Commissioner Lyman and Chair Roper added that it is their feeling the BoCC is interested in talking about the French Loop Road UGA request. Discussion ensued about County staff’s current workload, the sequence around Thurston Regional Planning Council’s (TRPC) buildable lands analysis as it relates to UGA resizing, and the timing. Mr. Sonnen added an analysis is expected sometime this summer.

Commissioner Strub said it doesn’t seem reasonable to make random decisions and removing things out of order prior to having the analysis data.

Commissioner Lyman commented whether the County or Olympia staff is involved in the French Loop matter, the Thurston County Planning Commission has to review it. She wants the BoCC to recognize the Commission has a full workload at this point. Mr. Sonnen said he will emphasize to the BoCC that the Commission is currently meeting three times a month to work through its work program.
Staff and Commissioners discussed docket item #19, *Grand Mound Urban Growth Area Rezone*. Staff is reluctant to rezone approximately 10 acres of industrial land based on current market conditions without evaluating long-term industrial needs for the County. If the Confederated Tribes of the Chehalis is successful in its water park venture, the character of the area will change significantly. Staff recommends deferring the matter to 2007.

Commissioner Lyman referred to item #17, a request to amend the Nisqually Subarea Plan to allow asphalt recycling. A discussion of how the docketing process works ensued. Mr. Sonnen explained all requests are placed on the preliminary docket. The BoCC reviews the preliminary docket and determines the amendments to be considered. The asphalt recycling issue is technical and will be contentious. The proposed amendment is beyond staff’s capacity to address this year.

Chair Roper conveyed that it is important to find outside experts that do not have an interest in the specific asphalt recycling request. The cost for expert analysis in addition to the staffing commitment should also be factored in. She suggested the BoCC consider the middle of an FTE range for staffing the proposed docketed amendments rather than the lower end.

Discussion ensued about the *City of Yelm Population and Housing Stock Updates* amendment.

Further discussion of the asphalt recycling issue followed. Commissioner Cole conveyed there is more of a problem associated with the hauling of gravel to the current recycling location. Eliminating the hauling and allowing recycling might create fewer impacts. The issue needs to be solved one way or the other. Mr. Sonnen stated staff is recommending the County address the matter. Chair Roper said the Commission will have an opportunity to review it should the BoCC approve it as part of the docket.

Referring to Commissioner Lyman’s previous question about how the docketing process works, Mr. Sonnen added that citizens propose plan amendment on a form that is forwarded to County staff. The request is placed on the preliminary docket for consideration by the BoCC.

Commissioner Strub asked whether it is appropriate for the Commission to forward a recommendation to the BoCC on the proposed docket. Commissioner Lyman said in the past, staff has provided the Commission with the draft docket for review and input. Mr. Sonnen said he could convey comments to the BoCC at the next briefing. However, if the Commission would like to further review the docket and forward a recommendation, staff will work that into the schedule. Commissioners expressed an interest in deferring discretionary amendments to 2007.

Mr. Sonnen distributed a tentative calendar for review. In response to comments from Chair Roper, Mr. Sonnen explained rural cluster development has two components. Jennifer Hayes is the lead staff person. The intent is to move forward with the rural rezoning with a cluster element that will be folded into the work as part of the overall update. Clustering could also affect other residential zoning districts that are not part of the update. That piece would come
The Clustering Task Force is developing design standards for clustering in the future. However, lower density residential zoning lends itself more to clustering than higher density residential. The task force continues to work on clustering and expanding its purview to look at potential lower density rural residential zones. There is a benefit to the Commission to review rural zoning in conjunction with clustering at the May 3, 2006 meeting.

Commissioner Lyman asked if the Clustering Task Force will complete its work by May with a recommendation to the Commission. Mr. Sonnen said no, but it appears there is an opportunity to apply a clustering element to 10-acre and/or 20-acre zoning. Commissioner Lyman expressed a concern that the Commission will begin looking at cluster development while the task force is still working on the matter. Mr. Sonnen suggested the Commission defer the discussion to such time that lead staff can brief Commissioners on the clustering aspect. Discussion continued about rural rezoning with a clustering companion.

4. **Staff Updates**

Mr. Sonnen reported on legal staff’s response related to the late arrival of LOTT’s letter regarding the Critical Areas Ordinance (CAO). The letter has been purged from the summary of CAO comments. In this instance, LOTT is a third party and not considered to be a government entity eligible to submit comments after the closing date of the comment period. Thurston County is a member of LOTT. Another complication is that the County’s Director of Water and Waste is also a technical advisor to LOTT. He provided the Planning Commission with information regarding reclaimed water from the LOTT facilities during the formulation of the County’s critical areas work.

5. **Calendar (Tentative)**

- February 15: Rural rezoning study areas
- February 22: Critical areas flooding; three open space applications

Staff and Commissioners reviewed the upcoming meeting schedule and confirmed quorums through the end of May 2006.

6. **Critical Areas – Identify Information Needs (for overarching issues, flooding, and geologic hazards); Begin Discussing Overarching Issues**  
   *(Staff: John Sonnen)*

Mr. Sonnen and Commissioners reviewed *Overarching CAO Issues*, beginning with page 1. The following is a summary of the discussion points and identified information needs:

**Page 1**
- Is the “priority habitat species” also reflected in the priority species section? Commissioner Lyman reported the subcommittee tried to avoid duplicating comments in other sections of the CAO substantive issues matrix. Comments that apply to several sections of critical areas became “overarching issues.”
Mr. Mackie states there is no science that says building 600 feet in the back of a house opposed to 500 feet will solve water quality issues. Commissioner Roper said she believes there is information available from one of the meeting tapes where the Commission negotiated the policy with former Planning Commissioner “Bob Bower.” Mr. Sonnen reported staff will research the science available that speaks specifically about the built environment and document the rationale behind the 500-foot policy.

Is the statement “However, when enacting a CAD it is important to keep in mind that development in critical areas is not absolutely prohibited in the GMA, so long as the functions and values of the critical areas are protected.” a true statement? Discussion followed about the acronym CAD (critical areas designation) versus CAO. Mr. Sonnen suggested CAD is likely a typo due to scanning, it probably should be CAO.

No further information needs were identified on page 2 beyond those requested at the Commission’s last meeting related to, “regulations as they apply to existing uses are retroactive and unduly limits current and future use.”

Page 3

The Commission should review the proposed CAO to determine if terminology similar to “potential, probable impacts” is used. Staff will revisit the issue.

Is it possible for staff to create a simple table of what’s allowed under the current CAO in terms of nonconforming structures and how that is changed by the proposed CAO?

Page 4

Is there economic impact analysis data available of how implementing CAOs in other jurisdictions has affected property values, affordable housing, etc? Mr. Sonnen replied affordable housing has more to do with interest rates than critical areas regulations. Commissioner Lyman said if possible, she’d like the County Assessor’s Office to identify two comparable pieces of property and look at the most recent sales of a property that is not encumbered by wetlands and a property that is encumbered by a wetland(s).

Gail Broadbent, 8941 Adams Lane NW, Olympia, reported students at The Evergreen State College are working on a report related to valuation of the land after applying critical area regulations. She will e-mail contact information to Mr. Sonnen so that staff can request a copy of the report when available.

Page 5

At the last meeting, the Commission asked staff for research regarding purchase and transfer of development rights.

Staff and Commissioners discussed the last bullet; “consider amending subdivision rules to allow the creation of critical areas parcels smaller than 5 acres for habitat protection purposes.” Previous boundary line adjustments (BLAs) creating tracts smaller than five acres have been approved. He said he will confirm the 5-acre subdivision component. In response to a question as to whether the 5-acre criteria on the current use tax program can be changed, Commissioner Lyman clarified it is a BoCC determined program and that the BoCC would have to change the policy.
• Can legal counsel address the difference between public use and public benefit with its “takings” analysis? At its last meeting, the Commission asked staff for information related to incentive programs available in the other jurisdictions (King County) for offsetting property taxes.

There were no identified information needs for issues covered on pages 6 and 7.

Page 8
• Mr. Sonnen said legal staff could provide clarity related to agriculture occurring on designated agricultural resource lands versus agriculture on other lands. One question is what authority does the County have in making exceptions.
• Is the Commission interested in considering another approach to address existing agricultural based on Whatcom County’s action? Mr. Sonnen said agriculture is a piece that will be included on the matrix previously requested by the Commission. Staff envisioned compiling and showing the essence of alternative approaches as they relate to existing versus new agricultural land. The Commission can determine whether it wants to take the issue further after it has flushed the details.

Page 9
• Commissioners and staff discussed “Emergency-Temporary Authorization.” Mr. Sonnen said he will ask Puget Sound Energy (PSE) what they mean by “emergency.” Commissioner Lyman said there are health and safety issues related to those requiring medical equipment in their homes. Mr. Sonnen said there are some things that could constitute an emergency and require a timely response. Commissioners expressed concerns related to PSE using whatever methods it deems appropriate to respond to an emergency; i.e., what does PSE consider “reasonable.”

Page 10
• Discussion of, “require native vegetation to protect instead of increasing buffer widths” ensued. Mr. Sonnen said there is science that speaks to vegetation to ensure water quality. Not only is the composition of the buffer important for riparian habitats, the buffer width is also important. Staff can document the rationale and supporting science more clearly.
• At the last meeting, Commissioners requested Department of Ecology (DOE) specify substantive non-regulatory programs that complement the CAO. DOE’s guidance document calls for a landscape approach to understand the systems under which wetlands operate.
• Has mineral extraction been addressed in Table 9-2? Commissioner Cole asked whether “an outright prohibition is not supported by best available science (BAS)” is a factual statement. Mr. Sonnen replied it is prudent to take an independent look at the industry science. Chair Roper said the public expressed concerns regarding how the County treated categories 1 and 2, and categories 3 and 4 with respect to mineral extractions. Staff will look at the other sources to determine if everyone reaches the same conclusion.

Page 11
• Commissioner Ottavelli said he is interested in reviewing whether the subject of using reclaimed water has been fully addressed in the proposed CAO.
• Commissioner Cole questioned the term “model ordinance.” Mr. Sonnen explained the Department of Community Trade and Economic Development (CTED) drafted a model ordinance and PSE participated in the formulation of the model. PSE is interested in counties adopting a uniform set of rules. Staff looked at the CTED model and alternative approaches and gleaned the best approach from available resources. Staff could pull out the provisions regarding utilities and Commissioners could evaluate it again.

• Discussion of “UGAs should be subject to regulations consistent with those areas” followed. Staff advocates County purview, as it is liable for anything that applies to the growth areas. Chair Roper said a useful resource document is where the jurisdictions vary from the County; i.e., if there is a significant difference or is there a “perceived” difference in the CAOs. Mr. Sonnen said staff will focus on the major buffers and approaches while drafting a resource document. Chair Roper added it could be an important communication piece. There are questions that if the regulations are truly based on BAS, why they vary from jurisdiction to jurisdiction.

• Commissioner Lyman expressed interest in reviewing all available information related to asphalt recycling. Inviting a chemist to attend a meeting to talk about the degradation of the materials would be helpful. Mr. Sonnen said a staff member from Environmental Health could provide a briefing to the Commission as well. Commissioner Ottavelli said it’s not just a science question but also the technology used in the recycling process. Commissioner Lyman conveyed it’s a matter of knowing the risks and where the risks are appropriate to locate. Mr. Sonnen conveyed that staff will try to put together a primer with knowledgeable people and background information.

There were no identified information needs covered on pages 12, 13, and 14.

Page 15
• Commissioner Cole referred to a sentence in the second bullet, “yet the county does not appear to indicate why it is scientifically necessary to increase buffer requirements on streams, wetlands, shorelines, and setbacks.” The County needs to be sure it is doing that.

• Mr. Sonnen confirmed the County is not subject to the “Regulatory Fairness Act” and the “Administrative Procedures Act.”

There were no identified information needs covered on page 16.

Page 17
• Commissioner Cole commented the County should explain the consequences of nonconformity to structures as outlined in the last bullet on page 17.

Page 18
• Commissioner Cole referred to the issue of “regulations are unlawfully vague.” Mr. Sonnen said an eye on clarity is important as the Commission moves through the ordinance.

• Commissioner Cole referred to the last bullet on page 18. Mr. Sonnen replied staff will review whether the County has regulatory authority regarding the use of pesticides. In addition, staff will clarify the relationship between the proposed regulations and forest and fish program. In most instances, wordsmithing may clarify misunderstandings.
Page 19

- Further clarification on shoreline management is necessary.

Page 20

- Is there science that supports 200-300 foot riparian buffers that are designed to replicate “old growth” forest conditions? Staff will research if there is new science beyond what’s currently available.
- Commissioner Cole read the last bullet stating, “are the proposed buffers the smallest that science will support and if not why not.” Mr. Sonnen said there is a policy choice involved. Commissioner Lyman said there is a range of riparian habitat widths. The Commission didn’t take the bottom or top end.

Page 21

- Chair Roper commented it’s been suggested buffers are not the only option available to protect the environment. She asked for documentation and/or science that support other alternatives.

Pages 22 and 23

- Chair Roper referred to the last bullet on page 23, “should make provisions for residential and urban forestland” and the relationship for eligibility for the Open Space Program. Commissioner Lyman said the comment should be moved to the appropriate section and evaluated with the earlier open space information request. Mr. Sonnen said in addition to open space programs the provision relates to the 5% tree retention requirement of the County’s subdivision ordinance.

Discussion continued concerning the editorial comment on page 23 followed.

Staff and Commissioners reviewed the Flooding/Channel Migration Hazards matrix and major research issues for staff.

- Page 7, does the Federal Emergency Management Agency (FEMA) consider certain regulatory provisions before determining whether a County or citizen is provided assistance? Mr. Sonnen said DOE implements portions of FEMA by agreement in the State of Washington. DOE staff assisted the County in developing the language in the draft. He suggested the FEMA reviewer and Joe Butler could attend and answer questions as the Commission reviews the section. Commissioner Lyman said there are other County codes that address crawl spaces and so forth. Mr. Sonnen said the flood regulations are located in two separate places and they should complement one another. Staff will sort out the fine points.
- Commissioner Lyman referred to the first comment on page 3, “should allow new agricultural activities in floodways and floodplains.” She said she is interested in information regarding potential impacts and the pros and cons.
- Staff and Commissioners discussed language addressing “prohibit new housing in floodplain” on page 3. Mr. Sonnen said he will reread letter and provide follow up.
Staff and Commissioners reviewed the Geologic Hazard Areas matrix and major research issues for staff.

- Page 1, a review of the science as it relates to the scope of the landslide and marine bluff hazard areas is probably prudent.
- Page 6, third bullet from the bottom, Commissioner Lyman inquired about under what conditions should new agricultural activities be allowed. If the Commission is familiar with the basis, it can evaluate appropriate activities. Mr. Sonnen replied irrigation is an issue. Staff can document the rationale and relevant science. A short discussion of the acronym “RCS” followed.

Discussion of the rural rezoning workshops and whether the Commission can reach conclusions at a single worksession ensued. There was general consensus the Commission will need to continue its February 15 discussions on rural rezoning to February 22, 2006. Commissioners agreed to devote 30 minutes at its next meeting to discuss research needs concerning habitat priority species prior to the rural rezoning discussion. Commissioner Strub requested the Commission receive further direction regarding whether rezoning volunteered lands would constitute illegal spot zoning before it takes up the issue. Mr. Sonnen replied staff will follow up.

Chair Roper reminded Commissioners to forward their comments to staff concerning the Possible Implications of Proposed Update to the Thurston County Critical Area Ordinance on Residential Land Supply report by February 8, 2006.

7. **Adjournment**

There being no further business, Chair Roper adjourned the meeting at 9:36 p.m.

Joyce Roper, Chair  
Liz Kohlenberg, Vice Chair

Prepared by Cheri Lindgren, Recording Secretary  
Puget Sound Meeting Services

*Corrections made by Cami Petersen, March 9, 2006*
### Thurston County Planning Commission

#### REQUEST FOR INFORMATION

<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>
</tbody>
</table>
| 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 | Staff                      | TCPC                      |
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designation criteria. Staff will e-mail the “homework assignment” to absent members.

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

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 Lyman N. Pritchett

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 draft some questions to include as part of the report requirements.

Chair Kohlenberg N. Pritchett

6/22/05 Schedule a tour of an extraction operation to attain a better visual sense of a working mineral extraction operation.

Commissioner Ottavelli J. Hayes

6/22/05 Obtain a more definitive answer about whether gravel resources are used from the mine in recycling operations.

Commission J. Hayes

6/22/05 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.

J. Hayes J. Hayes

6/22/05 The Planning Commission agreed not to send the final draft of Mineral Lands to the task force for review at this time.

TCPC Staff

7/6/05 Commissioner Cole referred to the Request for Information Summary Sheet attached to the minutes and noted his request on January 26, 2005 about concerns for citizen and how they can find out if there are impediments as to what can be done with a piece of property has not been addressed by staff nor has staff been
identified who will address the question.

7/13/05 Discussion of an appropriate buffer width necessary to protect adjacent properties from fire management practices on prairies and air quality followed. Staff will investigate whether it’s unlawful to burn, and if there are specific things that could be taken into consideration to help establish an appropriate distance. Commissioners suggested staff could confer with the Fire District or U.S. Forest Service.

7/13/05 The Commission requested staff investigate how to allow fish hatcheries without impacting the natural resources the County is attempting to protect.

8/31/05 Mr. Sonnen said there were many comments from the public about justifiability of the document (CAO). Staff has received several suggestions about how to respond to the complaints. He noted each chapter includes a summary that pertains to existing uses that some individuals found helpful. Staff could adapt the information and post it on the County’s website.

8/31/05 Mr. Sonnen offered a suggestion of a test with staff and with frequent users of the CAO document by providing an explanation of how the document is organized and then test the response to see if the person can work through and understand the document. The exercise will be in a form of a survey to seek some objectivity about the readability of the document.

8/31/05 Commissioner Strub requested inclusion of a definition list of all acronyms used in the document for easy reference by the reader. Mr. Sonnen acknowledged the request and suggested including a glossary of acronyms.

9/21/05 Commissioners asked Commissioner Lyman to
draft a letter to the County Board of
Commissioners requesting the Board intercede
on behalf of the Planning Commission to
receive additional legal support.

10/12/05 Staff asked members to consider an option of
forming task forces to focus on key topics such
as agriculture, mineral extractions, etc. The
task force could consist of two or three
Planning Commissioners and those with
technical expertise to help address issues raised
by the public. Additionally, consider
examining how other jurisdictions have
addressed similar issues. The task forces could
make recommendations to the Planning
Commission.

12/7/05 Various requests regarding LAMIRDs:
- Interest in viewing analysis for all
  LAMIRDs including Grand Mound.
- Suggestion to include intervening
  properties between the areas shown in
  yellow to the left of #53 (Maytown
  Road SE area)
- Supply larger maps for the open house
  on December 8, 2005
- Determine what is located on the are
  located within the tribe’s UGA

12/7/05 Commitment to the BoCC to provide a
companion piece in addition to the proposed
draft (CAO) to help the Board to determine the
range of science and options