THURSTON COUNTY PLANNING COMMISSION

Minutes
May 17, 2006

1.  **Call to Order**

Chair Roper called the May 17, 2006 regular meeting of the Thurston County Planning Commission to order at 7:10 p.m. Everyone provided self-introductions.

a.  **Attendance**

Members Present: Commissioners Chris Lane, Liz Lyman, Scott Nelson, Craig Ottavelli, and Joyce Roper

Members Absent: Tom Cole, Liz Kohlenberg, Bob Musser, and Rhenda Strub

Staff Present: John Sonnen, Cami Peterson, Delicia Durden, and Secretary Cheri Lindgren, Recording Secretary, Puget Sound Meeting Services

b.  **Approval of Agenda**

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

Commissioner Lyman requested adding a review of the Commission’s rules and procedures at the end of the meeting. The makers of the motion accepted the friendly amendment.

Motion carried as amended.

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

Chair Roper said she will ask staff to provide copies of *Oregon’s Property Rights Initiative, Measure 37* for the Commission’s next meeting.

3.  **Approval of Minutes and Acceptance of Tapes from April 26, 2006**
Commissioner Lyman moved, seconded by Commissioner Nelson, to approve the April 26, 2006 minutes and accept the tapes.

The following clarification was requested from staff for the April 26, 2006 minutes:

• The Commission asked staff to clarify through the digital recording, Mr. Nygard’s statement on page 3, within the first full paragraph, second sentence whether his statement was referring to large farm operations using nutrient management plans versus smaller hobby farms.

The motion carried. Chair Roper abstained.

4. **W: Critical Areas Revision Approach**

Chair Roper expressed concerns about the Commission’s progress and piecemeal approach for revisions to the Critical Areas Ordinance (CAO). Newer members do not have the historical background necessary to ensure an interactive process. She indicated that she spoke with staff earlier in the day regarding alternative CAO revision approaches.

Mr. Sonnen reported the goal is to complete the CAO for Growth Management Act (GMA) compliance. The County recently received an e-mail from the Washington State Department of Community, Trade and Economic Development (CTED) clarifying implications concerning the CAO. CTED states the County was obligated to complete the CAO by December 2005 and for CTED’s purposes, the County is noncompliant and not eligible for certain loan and/or grant programs. The earliest the County will complete GMA compliance work is November 2006. If the County is required to resize the growth areas, the compliance deadline is the end of February 2007.

Staff distributed a 2006 Tentative TCPC Calendar. Based on the schedule, staff anticipates the Commission will complete its CAO work by mid-year 2007. Realistically, the earliest the Board of County Commissioners (BoCC) is able to consider the amendments is January 2007.

Chair Roper suggested the Commission request two things from the BoCC:

• Hire an editor to work with the Commission on the second draft of the CAO to present a more finished product to the BoCC.
• Work with a facilitator to help communicate the background work and science the Commission considered when developing the initial draft ordinance to assist newer members.

Chair Roper said the editor can attend Commission meetings and a facilitator can attend monthly Saturday all-day meetings to move through the proposed CAO. The BoCC is considering hiring an editor once it receives the second draft. Mr. Sonnen said staff could work on the facilitator component. Staff recently submitted a mid-year budget request for an editor to review the second draft, but the request did not include meeting attendance. If the Commission wants to complete the draft CAO this year, additional meetings are required.
In response to comments and questions from Commissioner Ottavelli, Chair Roper said she envisions the editor as someone able to write the ordinance in “plain english” language, has experience concerning regulations, and possesses a planning and/or science background.

Commissioner Ottavelli said a concern is creating another strike-through version of the ordinance that requires another legal review. Another concern is the Commission spending time “editing” the editor’s work. He said he would rather schedule a longer weeknight meeting versus giving up a Saturday. Chair Roper said an approach is to schedule a facilitated orientation meeting for new members in the July/August timeframe, and begin holding Saturday meetings beginning in September. She asked staff to poll members to determine which meeting schedule works best. The Commission will need to draft a letter to the BoCC outlining the request for an editor and facilitator. Discussion ensued about the pros and cons of using a facilitator and addressing the organization of the ordinance prior to changing the language.

Commissioners Ottavelli and Lyman expressed support for a companion piece. Commissioner Lyman asked if potential editors could be shown the proposed ordinance with them suggesting how they would reorganize and/or change the document. The Commission could review the work product prior to the BoCC selecting and/or hiring an editor. Chair Roper added the subcommittees could attend the interviews.

Discussion followed concerning a common complaint about the difficulty of comprehending the ordinance. Mr. Sonnen noted a companion piece will involve rewriting a 200-page document, which will take months to complete.

Commissioner Lyman referred to a “guiding pamphlet” that will help users navigate through the CAO and obtain answers. Chair Roper said a guiding document could be developed following completion of a second draft and should accompany what the BoCC finally adopts. Commissioner Ottavelli said he envisioned the companion piece including an executive summary of each chapter of the draft CAO.

Commissioner Lyman said one issue is the staff notations, which creates a large document. Mr. Sonnen said creating a final draft document without the strikethroughs is easier to read. Commissioner Lyman said it might be beneficial for someone to read the document that is not familiar with the proposed ordinance.

Mr. Sonnen said it might be too much to ask an editor to attend every meeting.

Discussion followed about the target dates for the urban growth area (UGA) resizing project, current staffing levels through September, upcoming mineral lands work, and including and/or separating the rural rezoning project from the cluster development task force work.

**Commissioner Lyman moved, seconded by Commissioner Lane, to send a letter to the BoCC requesting funding for an editorial consultant to assist with the CAO and engage a facilitator to attend Saturday or extra evening critical areas worksessions. Motion carried.**

5. **W: Critical Areas – Flooding**
Commissioners continued their review of the flooding section in the CAO on page 7-17. Mr. Sonnen said Section F, 1, b, ii, allows for road access in the restricted development zone (RDZ) provided there is no alternate location outside of the RDZ. He reviewed Commissioner Cole’s suggestion for alternate language as shown in the “shaded” box on page 7-18, allowing road construction as long as it is elevated up to two feet above the base flood elevation (BFE), provided culverts are installed for passage of water, and that the applicant’s professional civil engineer licensed in the State of Washington demonstrates that flooding will not increase offsite or inundate structures. The Washington State Department of Ecology (DOE) supports the option. He asked whether the Commission wants to retain the optional language in the draft CAO.

Discussion ensued concerning culvert maintenance responsibilities, whether the County has high groundwater flood hazard areas with fish passage, and requiring devices or materials that prevents “plugging” of culverts. Mr. Sonnen said staff could develop language to accommodate requiring devices or materials that prevents culverts from becoming plugged, as maintenance is an issue. He noted DOE recommends arched culverts as reflected on page 5 of the comments matrix. Members noted the last sentence on page 7-17 was changed at the last meeting to read in part, “… road to access primary structures if no less damaging or hazardous alternative location exists…”

Mr. Sonnen said there is a lower risk with the original language rather than relying on culverts with an elevated road that may or may not work. Chair Roper asked whether the state regulates culverts. Mr. Sonnen said he did not believe so beyond fish passage, but that staff will research and follow up.

Commissioner Lyman asked if the optional language could be narrowed to certain purposes, such as essential facilities. Mr. Sonnen said that would satisfy DOE’s concerns. The Commission agreed to narrow the scope and suggested the first sentence of the OPTION language on page 7-18 should read in part as follows, “The approval authority may allow the road to be elevated up to two feet above the BFE to provide access to essential public facilities provided arches, bottomless culverts will be installed…” The Commission further determined not to allow road passage in the no development zone (NDZ) and/or the actual flood hazard area.

Commissioners reviewed the reasonable use exception language as currently proposed in the draft CAO as it relates to access and utility crossings. At the request of the County Road Department, Mr. Sonnen reported staff is likely to include an alternate approach.

The Commission concurred with DOE’s refined language concerning the third line of item d, ii, on page 7-18 that would read in part as follows, “… and/or grading will not exacerbate flooding of the subject property or adjacent property and has a broad public purpose.”

Staff and Commissioners discussed item d on page 7-18 that states in part, “Thurston County, other governmental agencies, and/or public utilities may obtain permits to fill and/or grade in high groundwater flood hazard areas and associated NDZ and RDZ to alleviate groundwater flooding provided such work is consistent with adopted Thurston County plans…”

Chair Roper said she doesn’t want to tie flooding to the subject or adjacent property if filling and/or grading could exacerbate flooding several properties away from the filling and/or grading activity.
She suggested the provision should apply to essential public facilities only. Mr. Sonnen said the language provides the County or a utility company with the authority to do what is necessary as long as the work is consistent with adopted plans, a qualified engineer demonstrates that such filling and/or grading will not exacerbate flooding, and that there is a broad public nexus.

The Commission agreed to strike the provision unless after additional review it is deemed appropriate to retain the language.

Staff and Commissioners discussed 2, a, on page 7-18, and revised the first sentence to read, “The approval authority may approve balanced cut and fill and compensatory flood storage within the 100-year floodplain…” Chair Roper asked staff to include a definition for “compensatory flood storage” per the Federal Emergency Management Agency (FEMA).

Commissioner Nelson noted section F, 1, jumps from sub-item “b” to “d.”

Mr. Sonnen said DOE would like the draft to include a reference within section G on page 7-19 to Chapter 14.38, which is the flooding chapter of the building code. The Commission agreed with the suggestion.

With reference to item #4 under section G, Timing, it states “clearing and grading shall only occur between May 1 and October 1” based on the state CTED model. The most recent DOE manual has changed the date from May 1 to October 31. DOE would like to revise the last sentence to read, “The county may allow clearing and grading outside of this period if the weather is conductive to achieve the activity, all drainage will flow away from all potentially the affected streams and wetlands and remain on site, and the site is stabilized per the Drainage Design and Erosion Control Manual.”

In reply to an inquiry from Chair Roper, Mr. Sonnen replied the authors of the Drainage Design and Erosion Control Manual are suggesting adding, “if the weather is conductive to the activity” language to the manual. Chair Roper said being able to reference the language to a regulation would be helpful. The Commission agreed not to include the suggested language, “the weather is conducive to achieve the activity” and to include landslide hazard areas with the streams and wetlands language.

Mr. Sonnen noted staff is revising a portion of the Timber Harvest section on page 7-20 to include handwritten comments that were not included in the summary matrix provided to the Commission. He reviewed the proposed high groundwater flood hazard areas language. The citizen’s proposed suggestion is to allow timber harvest and replanting in high groundwater hazard areas and associated NDZ. Discussion followed concerning at what point a tree stand impacts high groundwater, as the trees could be taking up the water some distance away rather than from the property on which they are located. Commissioner Lane said it’s not right to prohibit a property owner from taking down a few trees. Mr. Sonnen said there is no documentation that the trees in a specific location are beneficial to a flooding problem in another area. The other alternative is not to retain trees at all because it is not necessarily helping the flooding at that particular location. The regulation as proposed requires tree retention at the point where the water accumulates or daylights. A solution is to look at an area as a whole and develop an overall tree scheme.
Chair Roper said the subcommittee’s recommendation is to remove the restriction concerning timber harvesting. Depending on the soils it is important to not retain trees. However, it proved difficult to identify recharge areas. She noted the Growth Management Act (GMA) provides guidance that a more conservative approach is appropriate in the absence of science. Mr. Sonnen said in order for tree retention to be effective, retention is needed within an entire area contributing to high groundwater.

The Commission agreed to leave the language as proposed and directed staff to seek further advice and present alternate recommendations concerning when it is appropriate and not appropriate to cut trees depending on soil types and other characteristics.

Concerning Building setbacks at the bottom of page 7-21, DOE indicated the ordinance should address crawl spaces. Mr. Sonnen said the CAO is not the appropriate place to respond to the comment. Staff will draft crawl space language for inclusion in Chapter 14.38 of the Thurston County Code (TCC).

Mr. Sonnen referred to language at the top of page 7-22 that references, “a line two feet above the regulatory tidal BFE.” A FEMA study indicates three feet is the proper distance. Staff will make the change and cite the FEMA study.

Staff proposes to add a criterion d under K, 1, on Page 7-22 that states, “The lowest edge of the storage facility shall be 24-inches above the BFE.”

Staff proposes a refinement to L, 1, on page 7-23, that the last line read in part as follows, “… structure shall not exceed fifty percent of the market value of the structure as determined by an accredited appraiser either…” Commissioner Lyman asked whether an owner should be allowed to use the Assessor’s lower valuation if the owner does not want to incur the cost of an appraisal. The owner should have the option. The Commission agreed with the suggestion.

Mr. Sonnen said there are broad comments regarding sections L, M, and N, that the County is allowing too much flexibility in the regulations. He noted “Single-family residence” was deleted from section L and replaced with “Repair, Maintenance, Alteration, or Expansion of a Lawfully Established Nonconforming Structure.” The concern is that the County is allowing alteration of more non-conforming uses. The Commission agreed to keep the broader language as proposed in the draft.

6. **Calendar (Tentative) and Attendance**

- May 24: Geologic hazards, LAMIRDS
- June 7: Open space hearing; Rural rezoning; Agricultural and designation policies

Ms. Petersen reported staff was unable to find space to accommodate an August 2, 2006 public hearing on the rural rezone project. She said she will poll members the morning of May 18, 2006 regarding alternate meeting dates. Worthington Center is the best choice to accommodate a large public turnout.

Staff and Commissioners discussed the “Meeting Minutes” section of its Rules of Procedure. There is
a need to revise the Rules of Procedure to reflect the new minutes and digital recording format as follows:

- How extensive should the findings of fact be to meet legal requirements (A, #1)?
- Will the abbreviated minutes format provide the BoCC with sufficient to follow the Commission’s work (A #3)? Mr. Sonnen noted if the BoCC has questions about the minutes, they will listen to the recording.
- It would be helpful for Commissioners to receive copies of the final minutes to refresh their memories as to what occurred (A #2). It was noted the abbreviated minute’s format would not necessarily fulfill objective #2.
- Concerning B #9, “only factual errors should be corrected in draft minutes,” Chair Roper commented sometimes there is a need to address the way things are stated that might be factually accurate but does not convey the actual meaning.
- Revise A #5 to read, “For the official meeting record, meeting audio recordings should be used.”

Mr. Sonnen said he will consult with legal staff concerning appropriate revisions to accommodate the digital recording format.

7. **Staff Updates**

Mr. Sonnen reported staff will provide Commissioners with revised language and a draft letter next week in time for the BoCC’s June 21, 2006 meeting concerning the requests for an editor and facilitator.

8. **Adjournment**

There being no further business, Chair Roper adjourned the meeting at 9:32 p.m.

Joyce Roper, Chair  
Liz Kohlenberg, Vice Chair

Prepared by Cheri Lindgren, Recording Secretary  
Puget Sound Meeting Services  
*Corrections made by Cami Petersen on June 21, 2006*
## Thurston County Planning Commission

### REQUEST FOR INFORMATION SUMMARY SHEET

<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>6/22/05</td>
<td>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.</td>
<td>Commissioner Lyman</td>
<td>N. Pritchett</td>
</tr>
<tr>
<td>6/22/05</td>
<td>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.</td>
<td>Chair Kohlenberg</td>
<td>N. Pritchett</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</td>
<td>J. Hayes</td>
</tr>
<tr>
<td>6/22/05</td>
<td>Prepare a Countywide map to include all draft</td>
<td>J. Hayes</td>
<td>J. Hayes</td>
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layers from the critical areas regulations in addition to other criteria to assist the Commission in its discussion.

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.

Commissioner Strub | J. Sonnen

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.

Commissioners | Commission Lyman

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.

Staff | Staff/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 area located within the tribe’s UGA

Planning Commission | Staff

12/7/05 Commitment to the BoCC to provide a companion piece in addition to the proposed

Commissioner Lyman | Commission

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draft (CAO) to help the Board to determine the range of science and options

2/15/06 Follow up with legal staff to ascertain how many other counties have been challenged by Futurewise
Commissioner Cole Jennifer Hayes

2/15/06 Staff to check to ensure the refined map (Map 2 Rural Character) looks at 20 acre or greater parcels
Commissioner Ottavelli Jennifer Hayes

2/15/06 Interest expressed by several Commissioners to receive a map combining aquifer/sensitive areas, unbuildable areas, and rural character as well as adding marine conservation lands and also the above combination with the exclusion of rural character to ascertain how the rezoning study areas look
Commissioners Staff

2/15/06 Ascertain whether it is possible to provide an interactive workshop showing several map combinations
Commissioners GIS Staff

2/15/06 Obtain legal opinion regarding risks associated with large removal of large areas of agricultural lands from the rezone study areas project
Jennifer Hayes Staff

2/15/06 Staff was requested to provide the Commission with a recommendation concerning a protocol for drafting a volunteer program. Commissioner Strub requested staff work with the Farm Bureau also.
Commissioner Ottavelli Jennifer Hayes

2/22/06 Commissioner Kohlenberg requested knowing how local species are defined and selected
Commissioner Kohlenberg Staff

2/22/06 Staff to research public testimony regarding what is the BAS for expanding a list of rare and endangered species as outlined in the amendment
Commission Staff

2/22/06 Requested staff analysis of the impacts of gravel mining in riparian and management zones concerning important habitats
Commission Staff

2/22/06 Research with legal staff what the distinction is of agriculture occurring on designated agriculture resource lands and agriculture on other lands
Commission Legal Staff

2/22/06 Provide comparative data for habitat about the impacts of mining similar to data on
Commission Staff
2/22/06 Ascertain pros and cons for removing beaver ponds versus prohibiting the removal of beaver ponds. Commission Staff

2/22/06 Discuss clarification of terms related to estuary and estuarine wetlands Chair Roper/Commissioner Lyman Staff to add to 3/1/06 agenda

3/1/06 Commissioners requested a review of frequently asked questions (FAQs) prior to posting online Commission Staff

3/1/06 Present a list of target interest groups for the Commission’s review for the volunteer rezoning strategy Commission Staff

3/1/06 Air information on TCTV Channel 3 regarding the Volunteer Rezoning Program Commission Staff

3/29/06 Staff to provide notice to other river councils and other organizations regarding the Volunteer Program. Commission Staff

3/29/06 Commissioners to provide feedback and comments by April 5, 2006 regarding the three questions: Do we really want to create a new zoning district in this area? What is the appropriate density? What specific regulatory tools can work here? Staff Commission

3/29/06 Invite representative from Assessor’s Office to the Volunteer Meeting Commissioner Lyman Staff

4/5/06 Staff to e-mail the Residential Subdivision Moratorium – Rural County map to Commissioners. Chair Roper Staff

4/5/06 Staff to provide information regarding water availability and areas where there are current drinking water issues. Chair Roper Staff

4/5/06 Staff will develop a list of resource materials. Commissioner Kohlenberg Ms. Hayes

4/5/06 Staff was asked to e-mail the April 19, 2006 meeting packet Chair Roper, as she will be out-of-town. Commissioners expressed interest in receiving the meeting packet as much in advance of the April 19, 2006 Chair Roper Staff
meeting as possible.

4/5/06  Staff will contact the City of Lacey and follow up whether the City has water capacity to serve future residential development.  Ms. Pritchett  Ms. Pritchett

4/5/06  Staff to include the area map for the entire County with future LAMIRDs discussion materials.  Chair Roper  Staff

4/19/06  Commissioners should review pages 4-8 through 4-11 of the draft CAO ordinance.  Staff  Ms. Hayes

4/26/06  Commissioners should review page 10 of the administrative comments in the Reasonable Use Exception section of the CAO  Staff  Mr. Sonnen

4/26/06  Follow up with Commissioners on alternate date for dinner with BoCC  Mr. Sonnen  Mr. Sonnen

5/17/06  Staff to poll members to determine which meeting schedule works best for work sessions on the CAO.  Chair Roper  Mr. Sonnen

5/17/06  Staff will research and follow up with the Commission to determine whether the state regulates culverts with or without fish passage.  Chair Roper  Mr. Sonnen

5/17/06  Staff to provide copies of Oregon’s Property Rights Initiative, Measure 37 for the Commission’s next meeting.  Chair Roper  Mr. Sonnen

5/17/06  Consult with legal staff concerning appropriate revisions to the meeting minutes to accommodate the digital recording format.  Mr. Sonnen  Mr. Sonnen

5/17/06  Staff to provide Commissioners with revised language and a draft letter to the BoCC prior to the BoCC’s June 21, 2006 meeting concerning the requests for an editor and facilitator.  Commission  Mr. Sonnen

5/17/06  Staff will poll members the morning of May 18, 2006 regarding alternate public hearing  Ms. Peterson  Ms. Peterson
dates. Worthington Center is the best choice to accommodate a large public turnout.