1. **7:05 PM CALL TO ORDER**
Chair Roper called the March 21, 2007 regular meeting of the Thurston County Planning Commission to order at 7:05 p.m. Commissioners present provided self-introductions.

**Attendance:** Chair Joyce Roper, Commissioners Tom Cole, Chris Lane, Liz Lyman, Scott Nelson, and Rhenda Strub

**Excused:** Commissioners Liz Kohlenberg and Craig Ottavelli

**Staff:** John Sonnen, Celinda Adair, Cinde Donoghue, and Recording Secretary Cheri Lindgren

**7:05 PM APPROVAL OF AGENDA**

MOTION: Commissioner Cole moved to approve the agenda as presented. Commissioner Lyman seconded. Agenda approved.

2. **7:06 PM PUBLIC COMMUNICATIONS (Not associated with topics for which public hearings have been held.)**
There were no public communications.

3. **7:06 PM APPROVAL OF MINUTES**

MOTION: Commissioner Lyman moved to approve the February 7, 2007 minutes and accept the audio as the official recording. Commissioner Cole seconded.

**DISCUSSION:** The following changes were requested to the March 7, 2007 minutes:

- Within the fifth line of the fourth full paragraph on page 6, replace the word “with” with “in”
- Change the time noted for item #7 on page 7 from 8:26 PM to 9:26 PM
- Within the second paragraph under item #2 on page 1, replace “the role of the Planning Commission” with “rural rezoning”
- Within the next to the last line in the paragraph after the 7:20 PM motion on page 3, change the second reference to “open space” to “passive recreation”
- Within the third line of the fourth paragraph on page 7, add the words, “the attrition of” between and and Commissioners
- Reword the seventh bullet point on page 4 to read, “The Council will lose the opportunity to protect existing natural resources if it waits to update the CAO with the SMP in 2011.”
- Within the second bullet point at the top of page 5, replace the text “that there” with “whether”
- Reword the last bullet point found within the top portion on page 5 to read, “There are potential pitfalls if we rush through the watershed analysis in order to use that
data for the current CAO amendments.”
- Delete the word “effectively” within the eighth line of the third paragraph on page 6
- Delete the first paragraph at the top of page 7

Motion carried as amended.

4. **7:14 PM W: CRITICAL AREAS**  
   *(Staff: John Sonnen, Celinda Adair, Cinde Donoghue)*

ITEM: Staff reviewed with the Planning Commission public comments regarding the draft critical area regulations and provided related research previously requested by the Planning Commission.

HANDOUTS:
1. A six-page document that has “IHS” hand-written at the top
2. A one-page document that begins with, “No Net Loss of Critical Area Functions”
3. A two-sided legal size “overarching issues” document that begins with, “Restore native vegetation rather than increase buffers”
4. A six-page document that has “Flood Hazards” hand-written at the top
5. An 11-inch by 17-inch six-page “nonconforming structures” county regulations comparison matrix document
6. An 11-inch by 17-inch two-page “nonconforming structures” city regulations comparison matrix document
7. “The Impact of Nonconforming Status on a Homeowner’s Ability to Purchase Insurance Coverage or Refinance: A Telephone Survey of Insurance Companies and Banks”
8. “Thurston County – Proposed, Thurston County – Existing” nonconforming structures two-page table
9. A one-page document that begins with, “Geologic Hazards”

DISCUSSION: Mr. Sonnen reviewed item #28 on the overarching issues matrix, “Require native vegetation to protect instead of increasing buffer widths” on page 26 of the overarching issues matrix. He distributed excerpts from the draft critical areas ordinance (CAO) addressing reducing buffer widths in exchange for restoration (handout #1). He reviewed the restoration approach and restoration plan requirements.

Mr. Sonnen referred to handout #2 within the “Access” section. Legal staff suggested language changes. Chair Roper said a court order is required if a property owner says the County cannot access private property. Discussion ensued about “administrative warrant authority,” and what happens when a property is subsequently sold. Mr. Sonnen indicated he would follow up with legal counsel.

Mr. Sonnen reviewed handout #3 beginning with, “Option for riparian habitat area reduction requires additional criteria.” Commissioner Cole stated there are many cases when non-native plants might be better. Requiring native vegetation is too restrictive.
Mr. Sonnen responded that a question is whether the Commission wants to retain the approach suggested and, if so, are refinements necessary. Commissioner Lyman conveyed that she’s comfortable with reducing a degraded buffer by 25% in the urban growth area (UGA) in return for buffer enhancement. Dialogue about the Washington Department of Fish and Wildlife (WDFW) and Futurewise’s comments followed.

Further discussion followed about nonnative and native plants and trees, and not introducing vegetation that are dangerous to habitat. Mr. Sonnen suggested amending item #2 under “E” on page 8-62 on handout #1 to read, “Replacing invasive or nonnative plant species with native vegetation or other appropriate vegetation,” and defer a decision to WDFW. Commissioner Lyman suggested it read something similar to, “the preferred vegetation is native; however, based on circumstances and with approval of WDFW or the professional reviewing the restoration plan, other vegetation may be substituted.” The Commission directed staff to amend the section as appropriate.

Chair Roper suggested adding “or” between biologist and other within the first line of item E on page 8-62. Mr. Sonnen noted that the third sentence within the same paragraph is duplicative and can be deleted.

The Commission reviewed the overarching issues matrix and reviewed item #29 on page 28, item #30 on page 29, and items #31 and #32 on page 30. Specific to item #32, Mr. Sonnen said legal counsel reviewed the cases cited by Futurewise and concluded there is no ruling by the Western Washington Growth Management Hearings Board (WWGMHB) that requires the 65/10 program.

Commissioners reviewed staff comments for item #33, “regulations should err on the side of caution” found on page 32. Conversation about hydrogeomorphic critical areas followed.

Mr. Sonnen explained the history about the nonconforming structures, uses and current regulations that allow structures to expand vertically if within a critical area buffer. The part of a nonconforming structure that falls outside of a buffer is considered conforming and can be expanded in any way. There are restrictions about improvements to a nonconforming structure located in the floodway. The public feels limiting expansion of an existing nonconforming structure to 500 square feet is arbitrary. Staff and Commissioners reviewed the comments found on page 33 of the overarching issues, the research requests, and staff comments. It was noted the current regulations do not allow any expansion of the building footprint when located within a floodway.

Ms. Adair reviewed handout #7. Staff talked to several insurance companies and banks via telephone. Many insurance companies offer insurance for nonconforming structures. Banks also permit refinancing.

Specific to handout #8, Ms. Adair acknowledged the term “Stream Areas” should be changed to “floodways” throughout the document. The most significant change between
the proposed and existing regulations for nonconforming structures relates to the proposal to allow expansion of nonconforming structures within the floodway of 500 square feet.

Handouts #5 and #6 compare Thurston County’s nonconforming regulations with those found in other counties and cities, respectively. Thurston County’s regulations are no more restrictive when compared to other counties. The cities are more restrictive when it comes to replacement and expansion of nonconforming structures.

Discussion ensued about the proposal to allow a nonconforming footprint to expand by 500 square feet in the floodway and other approaches to provide for reasonable expansion without damaging other functions. Staff and Commissioners recognize the 500 square foot threshold is arbitrary but not capricious, is not supported by best available science (BAS), but is a compromise until BAS is available. Commissioner Lyman suggested including a note stating the current CAO allows for vertical expansion only for nonconforming structures. The proposal will allow expansion of the footprint.

Conversation followed about enclosing existing impervious surface areas (such as a patio), stormwater impacts associated with roof runoff and other impacts such as lighting, examples of tight-lining stormwater, and the reach analysis that is required as part of the SMP update process.

Commissioner Nelson said a concern is when the draft CAO is adopted, the three homes on his property will become nonconforming.

Chair Roper stated in the absence of BAS, the GMA requires a conservative, protective approach. The 500 square foot expansion issue was heavily debated before. She requested not incorporating a note in the draft CAO about potential modifications following completion of work for Shoreline Master Plan. However, it should be noted for the benefit of the Commission, staff, and the Board of County Commissioners. Commissioner Lyman said based on current BAS, zero expansion of the footprint within a floodway is defensible. The 500 square foot threshold is a policy decision. Cumulative impacts cannot be addressed without the watershed analysis. Ms. Donoghue added that a cumulative effects analysis is also required with the SMP update.

8:34 PM Related to issue #36 on page 35, “no economic impact analysis,” Ms. Adair reported she talked with the Assessor’s Office. The Assessor’s Office is not able at this time to conduct a case study.

Commissioners acknowledged comment #37 on page 35.

Mr. Sonnen reviewed comment #38 that begins on page 35, “cost of proposed regulations is borne disproportionately by rural or private property owners,” and the status of the research requests. Ms. Knight will present additional information at the Commission’s next meeting.
Discussion ensued about why the County’s Transfer of Development Rights (TDR) program is not as successful as it could be. Commissioner Strub said it’s the oldest program in the state but the County has not yet received one complete transfer. One sale has occurred, but the rights have not been applied. Mr. Sonnen reported staff received notice that a property owner will apply a TDR this week. Commissioner Strub conveyed King County’s program is working well. King County has protected 500,000 acres to date. She reported that she initiated a working group to discuss TDRs. The group has convened several times. The last meeting occurred in October 2006.

Commissioners Lyman and Cole stated Thurston County has been more successful with the purchase of development rights.

Mr. Sonnen said several Development Services staff attended a TDR conference last September. Whatcom County presented its program where a developer receives three development rights for each right purchased. Whatcom County’s program is also quite successful. The Board has identified development of a Farmland Preservation Plan as a priority for the Agriculture Committee.

8:50 PM Mr. Sonnen and Commissioners reviewed overarching comments #41 through #43, the research requests, and staff responses. Mr. Sonnen conveyed that staff could brief the Board that the Commission discussed creating lots smaller than five acres in the RRR 1/5 zone for large lot subdivisions for non-residential uses, and ask that it be included in the rural rezoning public hearing draft. There were no objections.

Mr. Sonnen reviewed item #44, “allow more discretion for temporary emergency actions in critical areas,” recommendations proposed by Puget Sound Energy (PSE), and staff’s response. A concern expressed by PSE is the requirement to obtain County or city approval to take necessary actions to restore power. The Commission could allow an exemption for public agencies, and gas and electric utilities, when responding to public health or safety issues under some version of the suggested criteria. He asked to change the notification threshold from two days to one day if the Commission decides to endorse PSE’s approach.

Discussion ensued about coordinating public and private activities with the Emergency Operations Center (EOC). Chair Roper said defining “emergency” would be helpful. Mr. Sonnen indicated he would follow up with legal staff about crafting a definition for “emergency.” Staff will present draft language at the next meeting.

9:01 PM The Commission reviewed item #45, “noxious weeds.” Mr. Sonnen referred to handout #9. He reviewed the role of the Noxious Weed Board (NWB). If a noxious weed is identified on private property, the NWB issues an order for removal followed by a very short timeframe to act. Development Services met and reviewed the proposed language with the NWB. The language under the banner of “Geologic Hazards” is the approach favored by the NWB. He reviewed the proposed standards, and under what circumstances the NWB would consult with Development Services staff and/or other

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agencies as appropriate about alternate strategies. Commissioner Lyman conveyed she finds the term “consult” somewhat bothersome.

Commissioner Cole pointed out paragraph “vi” talks about native plant species, which might not be the best answer to effectively control erosion.

The Commission considered increasing the size threshold from 100 square feet to 500 square feet or more (#v). Commissioners agreed a 100 square foot threshold is appropriate for the average citizen, and a 500 square foot threshold for wetlands and stream habitats is reasonable under the direction of the NWB.

The Commission agreed to strike “native” from the sixth line of item “vi.”

5. 9:14 PM CALENDAR (Tentative) AND ATTENDANCE
   - April 4, 2007:  W:  Critical Areas (Commissioner Lane unable to attend)
   - April 18, 2007:  B:  Open space;  W:  Critical Areas
   - May 2, 2007:  W:  Critical Areas (Commissioner Cole not sure, might be late)
   - May 16, 2007:  H:  Tentative open space;  W:  Critical Areas

Mr. Sonnen reported a tentative Board briefing for the rural rezone proposal is scheduled for April 5, 2007 at 2:00 p.m.

The Board is meeting at 1:00 p.m. on April 2, 2007 to consider adjustments prior to renewing the interim mining regulations. Mr. Sonnen reported that Ms. Donoghue is assuming the mineral lands project. He reviewed the history and status of the proposal. The Board wants some assurance that the Commission is moving forward with mineral lands. Staff is planning to bring the mineral lands research request materials to the Commission in the spring. An option is for the Commission to tackle critical area issues pertaining to mining and asphalt plants, and picking up the mining component of the draft CAO when scheduling permits. Discussion ensued about the Commission’s heavy workload. Mr. Sonnen noted the mineral lands project is an emerging issue from the Board.

Ms. Donoghue reported legal counsel is concerned that the interim regulations have been in place for four years. It is important that the County demonstrate it is making progress with the mineral lands work.

Mr. Sonnen said that staff will provide the Commission with a briefing about the task force’s initial findings, and draft a strategy about how to proceed following the April 2, 2007 Board meeting.

Dialogue about the status of the clustering and Limited Areas of More Intensive Rural Development (LAMIRDs) projects, and creating another task force to deal with the asphalt piece of mineral lands followed.
7. **9:31 PM ADJOURNMENT**
   There being no further business, Chair Roper adjourned the meeting at 9:31 p.m.

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Joyce Roper, Chair

Prepared by Cheri Lindgren, Recording Secretary
Puget Sound Meeting Services