1. **6:30 P.M. CALL TO ORDER**

Commissioner Nelson called the December 21, 2011 special meeting of the Thurston County Planning Commission to order at 6:30 p.m. Commissioners provided self-introductions.

**Attendance:** Commissioners, Scott Nelson, Liz Kohlenberg Jennifer Davis, Ed Fleisher & Chris Earle

**Absent:** Chair Chris Lane, Commissioners, Christine Spaulding, Bill Jackson & Kathleen O’Connor

**Staff:** Jeremy Davis, Scott Clark, Cynthia Wilson and Jeff Fancher, Prosecuting Attorney’s Office

2. **6:30 P.M. APPROVAL OF AGENDA**

**MOTION:** Commissioner Earle moved to approve the agenda. Commissioner Kohlenberg seconded. Motion carried as amended.

Number six on the agenda was struck. Jeff Fancher will be asking the Planning Commission a question in regards to agritourism however during staff updates.

3. **6:31 P.M. APPROVAL OF MINUTES**

**Commissioner Davis moved to approve the September 21, 2011 minutes and accept the audio as the official record. Commissioner Earle seconded. Motion carried as amended.**

Jennifer Davis was not listed in attendance but did attend the meeting.

The Planning Commission then discussed the verbatim minutes and how they would like to see them done to reflect the main key points of the subjects.

**Commissioner Fleisher moved to approve the September 28, 2011 minutes and accept the audio as the official record. Commissioner Davis seconded. Motion carried.**

4. **6:42 P.M. PUBLIC COMMUNICATIONS (Not associated with topics for which public hearings have been held.)**

To hear public testimony please use the following link: http://www.co.thurston.wa.us/planning/planning_commission/planning_comm_minutes.html

*No members of the audience chose to speak.*
5. **6:42 P.M. STAFF UPDATES**

Jeff Fancher provided the following staff update:

- Mr. Fancher recommended to Mr. McCormick in revising the staff report as a clean copy with all of the Planning Commission’s (PC) last edits before bringing it back to the next meeting for review. The PC agreed with Mr. Fancher.

No further updates were provided by Mr. Clark.

6. **6:43 P.M. WORK SESSION: Mineral Lands**

*Staff: Scott Clark*

(Verbatim section only)

Verbative section starting at: 00:13:37

Mr. Clark: So over the past several months we have been working on mineral lands, Olivia Terwilliger not Olivia Story compiled a significant amount of science and then drafted the first representation of this which we’ve got probably at the beginning of November. Then we spent some pretty significant time in the last few weeks with our work and then shaping it into a document that responded to the final decision and order from the Growth Managements Hearing Board because we wanted to be sure we answered everything that they brought up. So what originally came out of the final decision order; we were challenged on 23 issues regarding our adoption of our mineral lands designation criteria back in September of 2010. Of the 23 issues majority were we either prevailed on or were not taken up in consideration so we were finally required to reconsider 7. In doing that we’ve put together this staff report and we’re calling it the preliminary staff report because one you’ve got to give us some more input and two we will be looking at some additional things that you bring up but we will discuss what the final direction on the order stated which is we failed to show that we considered a minimum state guidelines when designating mineral lands and we failed to consider GMA’s requirements for protection of the critical areas and we violated the standards for public participation in that there were significant changes made to the designation criteria after all the public hearings had been held. So that was remanded back to us. To resolve that the standards for public participation one you’re holding these meetings, you’ll hold a public hearing, the Board will hold meetings, hold their public hearing and then we should be ok on that one. Regarding the analysis for the minimum state guidelines and protection for critical areas, that’s in this thirty-six pages where we went WAC for WAC, considered the guidelines and then discussed the local policy decisions that the state authorizes you to make. So you will see in here that we discuss the GMA requirements, the Washington Administrative Code for Mineral Lands Designation and also the guidance that the state provides when the GMA or the WAC conflict with each other because they do in many cases. You’re protecting everything and nothing all at the same time it seems. So what the state does provide is guidance for how a jurisdiction at the local policy level can deal with that. The keys that we found in here is that one we went into each critical area and you’ll see that discussion take place and the key purpose of the designation of mineral lands is to identify areas from which you can believe at some point in the future extract significant mineral lands from. The way we looked through most of this argument was that there was no way possible you were ever going to be able to extract mineral lands from it or the value of that resource was equal or greater than. Then would you really
consider for designation? So that’s how we took a look at this. We talked about critical aquifer
recharge areas, fish and wildlife conservation areas, frequently flooded areas and wetlands.
You’ll see the discussion of best available science in each one of these and then there is a
bibliography that shows where the quotations and the authors came from. So we will take you
through this tonight, the key points of it and over the next two weeks please read it and then
come back on the fourth prepared to discuss your issues and recommendations.

Jeremy Davis: Also by the fourth we will be sending out the actual amendments to Chapter 3
Natural Resources for the designation criteria to reflect the recommendations if there are any
changes to what we adopted in 2010.

Detailed section ending at: 00:17:40

The PC requested a map of the two layers of CARA’s, geology layer and soil layer when
discussing CARA’s.

The Growth Management Act requires the County to designate both mineral lands and critical
areas. This is mineral lands of long term significance. The Growth Management Act does not
place any priority on these. Each one is treated equal in the GMA. When designating, we are
creating criteria which needs to be reviewed to comply with the GMA goals. The four
pertinent goals are one; natural resources two; open space three; environment and four;
shorelines. The Wean Decision was then discussed. The WAC does not provide a priority list
so the Washington State Administrative Code is used. The Code basically follows the GMA but
doesn’t place a priority. The guidelines are to be reviewed, taken into consideration and weigh
them against the proposal. As will be discussed, staff believes that it may not always be the
appropriate to designate a particular critical area as a mineral land.

One thing that needs to be done to preclude any code designation is a development of a local
environmental circumstance or case for that including providing this information within the
record. Staff believes that limiting designation specific within critical areas would also be
consistent with WAC 365.190.0703d and that is on the classification of mineral resource lands.

The County-wide planning policies are another thing that staff has to look at when we are
evaluating and making changes to the Comprehensive Plan and development regulations.
Staff specifically went through Chapter 3 of the comprehensive plan where the designation
criteria are located and also the goal on mining in mineral lands. The designation criteria does
not allow for the designation of agricultural lands. The policies within this section do not
clearly state that the critical areas should not be mined. However two policies do address
issues related to critical areas. The majority of the policies that deal with critical areas and
environmental preservation are in Chapter nine Environment of the Comprehensive Plan.

Questions were then asked of staff by the PC.

The first question was regarding fish and wildlife habitat conservation areas and when staff
may have further information regarding this? Staff will be looking at the designation criteria
themselves and will put any of the staff recommendations in the staff report. There is a section
on fish and wildlife habitat that already exists within the staff report. One of the next steps in
the mineral lands discussion will be actually going back and looking at the special use permit
criteria in Title 20 as well as the asphalt plant criteria just to be sure that they fully reflect what’s in the Comp Plan and all of the policies.

Mr. Fancher asked the PC to keep in mind that when people come in for mining permits where most of the studies are going to be done and paid for if we are truly doing a designation process for the future; laws change, the ways you designate critical areas change. Therefore having people taking a lot of time and money to delineate things when they are designating does not make a whole lot of sense when they are going to have to do it twenty years later when they come in for the mining permit and things have changed.

The first thing staff looked at was critical aquifer recharge areas which are not defined in the RCW but are in the WAC. The key to the definition is the critical recharging effect on the aquifer used for potable water and where drinking water is vulnerable to contamination. CARA’s are broken down by County staff on CARA’s I, II, III and IV. Then time of travel for well head protection areas was discussed. Specific science was discussed including in 1995 when Robert and Read (was Thurston County’s Hydrogeologist at the time) did a study called the Direct and Cumulative Effects of Gravel Mining on Ground Water in Thurston County. Within the science study they suggested taking a look at the setting on individual cases and determine your regulations at that point. This would include more monitoring and investigation.

Within staff’s recommendation or conclusion are the effects of water quality and quantity do to the designation of the land as mineral land of long term significance is not in itself a direct risk. However, aggregate mining increases the risk of pathogen and contamination in the ground water. Regulated activities as a company, aggregate mining also generates bills of hazardous materials that post significant risk and in many cases go unreported. The long term affects of hazardous material spills in an area of study where data is lacking.

Commissioner Kohlenberg wanted the point made that even though you can designate specific criteria it doesn’t necessarily need to be the first priority. She agrees that staff and the PC need to be very clear why we would want them in certain areas and not others but there is a line between might be ok here and over here it is going to be fine.

Mr. Clark wants the PC to go through the proposal with the following in mind; looking at the particular values to the community and that the WAC provides, the risk and can you mitigate it? The answer is you can write rules to mitigate the risk but they are not exactly being mitigated or many cases are not being reported.

Concerns were then raised about the recommendations by Commissioner Earle on page 21. Recommendation two and the requirement of hydrogeologic studies during the permit process by site specific condition. The question of directly approving a mine not the question of designating of an area for mineral lands. The special use rules were then referenced. There currently are SEPA rules in place also.

Page 22 of the staff report was then discussed and how to identify Fish and Wildlife Habitat Conservation Areas. These areas as defined are critical role in sustaining needed habitat and habitats of local importance. These areas are changing over time due to submitted applications. Staff will be working on defining what they mean by conservation areas so that we know what
things may be excluded from a designation and what things may be addressed through a special use permit process.

On page 25 the intent on the conclusion was if you have a known site with those particular species on it where mining is not feasible, don't designate it but staff is still trying to make this clearer with species criteria and known areas that can be designated.

In flood plains staff is recommending that the PC prohibit the designation of mineral lands in the 100-year flood plain because of the volume of information that has come out of the biological opinion saying essentially prohibit development in a 100-year flood plain.

The wetland section has information about definitions of wetlands including the GMA and CAO. The section also talks about the various rating systems with the previous recommendations of not including category I & II in the designation. Wetland soils generally are not considered gavel soils or mining soils therefore you would not designate them as mineral soils because no one would be mining them. This section also walks you through the wetlands as well as buffer protection and how important the buffers are for those wetlands. In the recommendations staff is basically talking about a high risk of the wetland functions and wetlands and new buffers should both be protected from disturbance. The PC would like to see where staff is differing from the last change of adoption in 2010. A discussion ensued in regards to the designation of class I and II wetlands.

7. 8:15 P.M. CALENDAR

January 4, 2011 – All Commissioners will be in attendance.

Staff also asked the PC if they would check their calendars for a public hearing on February 8, 2012.

8.  8:15 PM ADJOURN

With there being no further business, Commissioner Nelson adjourned the meeting at 8:15 p.m.

Scott Nelson, Commissioner

Prepared by Carrie Toebbe, Recording Secretary