THURSTON COUNTY PLANNING COMMISSION

Minutes March 21, 2012

1. 6:30 P.M. CALL TO ORDER
Chair Lane called the March 21, 2012 meeting of the Thurston County Planning Commission to order at 6:30 p.m. Commissioners provided self-introductions.

Attendance: Chair Chris Lane, Commissioners Scott Nelson, Christine Spaulding, Christopher Earle, Edward Fleisher, Jennifer Davis & Liz Kohlenberg

Absent: Kathleen O’Connor & Bill Jackson

Staff: Andrew Deffobis, Cindy Wilson & Jeremy Davis

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

MOTION: Commissioner Fleisher moved to approve the agenda. Commissioner Nelson seconded. Motion carried.

3. 6:30 P.M. APPROVAL OF MINUTES

MOTION: Commissioner Nelson moved to approve the March 21, 2011 minutes and accept the audio as the official record. Commissioner Spaulding seconded. Motion carried.

It was noted that the signature line stated Chair Lane was at the meeting however Commissioner Nelson was actually facilitating the meeting that night. Chair Lanes name was crossed out and Commissioner Nelsons was written in.

4. 6:31 P.M. PUBLIC COMMUNICATIONS (Not associated with topics for which public hearings have been held.)

No members of the audience chose to speak.

The official audio is available on line at:

http://www.co.thurston.wa.us/planning/planning_commission/planning_comm_minutes.html

5. 6:31 P.M. STAFF UPDATES

Mr. Deffobis & Mr. Davis provided the following staff updates:

- Staff has been looking at what still needs to be completed for the CAO. A special meeting day was requested for April 11, 2012. The special meeting request is because staff should have many things ready to go by then for the PC to re-review.
Chair Lane asked the PC who could attend a special meeting on April 11th and a quorum spoke up so staff will tentatively schedule the meeting and meeting room space. Staff stated that they would be looking at Fish and Wildlife habitats in general, the prairie ordinance in particular, the CARA’s chapter and Mr. Deffobis had an e-mail error that put all of his saved e-mails out of order so he has been going back through them to make sure nothing has been missed.

6. 6:35 P.M. CALENDAR

April 4, 2012 – Chair Lane will not be in attendance.

7. 6:36 P.M. WORK SESSION: CAO – Timing of Flood Zone Reconstruction: Marine Riparian Areas, No Net Loss; Third Party Review; Biosolids, Overview of Comments on Chapter 24.50 Nonconforming Uses; (As Time Allows)

*Staff: Andrew Deffobis, Cynthia Wilson, Jeremy Davis & Mark Swartout*

Mr. Swartout started the work session with discussion on timing of flood zone reconstruction. Basically what it does is bring the Critical Areas Ordinance more in line with the Building Code. The building code requires that when a substantial improvement comes in on a resident in the flood plain that is greater than 50% of the market value prior to the damage. They have to mitigate for this and that means that they have to raise the home two feet above base flood elevation. The provision should require residences in the Special Flood Hazard Area (SFHA) to mitigate for flood damage when the cumulative substantial improvements to the existing structure exceed 50% of the fair market value. This would apply mainly to older homes since newer residences were required to build at 2-feet above base flood elevation. Currently the county’s building code requires residences in SFHA to mitigate for flood damage when the property owner applies for substantial improvement building permit that exceeds 50% of the fair market value. The occasional property owner that applies for multiple building permits over time that cumulatively is greater than 50% of the current market value as a way to avoid having to mitigate for flood damage is then missed. The avoidance in mitigating for flood damage results in structures having repetitive losses due to floods.

FEMA rates Thurston County as a Class C Community, the lowest because there are over ten residences that have experienced repetitive losses due to floods. By making this provision in the CAO the county would meet FEMA’s requirements to reduce properties that are repetitive losses. The provision would also help address climate change. The County would benefit by getting additional credit for the provision in the CRS program. The benefit to the property owners, when they mitigate for flood damage, is their flood insurance premiums would be lowered but most importantly they would have less flood damage.

The section of the draft CAO where the suggestion pertains is 24.50.030 which is Alteration, expansion, repair and maintenance – Frequently flooded areas. The staff option would specify there is no time limit which cumulative substantial improvements add up to 50% of market value.
The question was asked how the home owner goes about raising their home up two feet above base flood elevation. Last year a grant was awarded to the county to aid 30 low income homes with this process. After said and done only 18 homes had been completed. Each home that was completed had a $25,000 cap on the construction.

**MOTION:** Commissioner Spaulding moved to recommend approval of the draft language of the Flood Zone Reconstruction with the clarification of the second to the last sentence. Commissioner Kohlenberg seconded. Motion carried.

After the motion was made and the work session for flood zone reconstruction was complete Chair Lane asked the public if anyone would like to address the planning commission. At the time no public responded.

**6:56 PM  ** Marine Riparian Areas-

Ms. Wilson then addressed the Planning Commission about Marine Riparian Areas. Comments that were given from citizens at the public hearing were discussed and certain options that are available in regards to them. Many of the comments were in regards to trying to make the riparian areas in marine waters the same as fresh water riparian areas because the science indicates that everything is meshed together and very similar. A lot of the comments referenced undeveloped property. These are dealt with as a buffer on marine riparian areas, potentially management areas and then existing uses would fall under the non conforming chapter.

Originally when the CAO was being looked at in 2005 there was quite a bit of science on freshwater riparian but now there is a lot connecting fresh water and marine riparian. Our current draft ordinance has a 150 foot marine riparian area, a 100 foot management area and the current fresh water habitat areas have up to a 250 foot buffer and a 50 foot management area proposed. The question for discussion was if the planning commission wants to address marine riparian areas similarly? They are also only applied within conservancy and natural shorelines as opposed to rural. Staff’s recommendation is that the science supports 250 feet on the areas currently designated as conservancy and natural with the option to include some kind of marine riparian area on a rural shoreline. Rural shorelines have a 50 foot buffer under the Shoreline Master Program and currently under the CAO draft there is no buffer.

Within the MRHA (Marine Riparian Habitat Area), new development, including subdivision, must occur outside the buffer. For existing lots that are completely encumbered, TCC 24.50 applies to allow up to 5,000 square feet of development area. This can occur in the outer 25% of the buffer for riparian areas. For the buffers currently under discussion, the potential reductions would be 150 feet buffers could be reduced to 112.5 feet, 200 feet buffers could be reduced to 150 feet and 250 feet buffers could be reduced to 187.5 feet. The draft language for all Riparian Habitat Areas sets specific widths and allows them to be altered under the following criteria: These standard widths may be reduced pursuant to section 24.25.025 TCC, increased pursuant to section 24.25.030 TCC or reconfigured pursuant to section 24.25.035 TCC. The lots would fall under the 24.50 Nonconforming Chapter for development, potentially allowing a 5,000...
square foot area or development under a Reasonable Use Exception. Staff’s proposal is to allow 500 square feet of new impervious area the same as the freshwater riparian habitat areas.

The proposal for CAO Marine Riparian Habitat Area is proposed to apply only to marine shoreline designated as Conservancy and Natural. Staff’s recommendation is to consider increasing the marine riparian buffer to 250 feet, and setting the management zone to 50 feet. This would be consistent with the freshwater riparian buffers and management zones.

Within 150 feet on marine shorelines they’re 1159 lots currently. 357 of those lots are one acre or less, 206 are greater than 5 acres. Therefore if the buffer was increased to 250 that in return increases the number of parcels to 117 so 1276 parcels on the marine shoreline. In looking at the marine shoreline, most of the very small lots are rural shoreline so the proposal would not necessarily affect them and most of the lots that are encumbered are already developed. It would be very few lots that would be encumbered that are undeveloped.

The question was asked again by the Planning Commission to staff if they have any evidence other than what the science states about fresh water and marine shorelines basically being the same type if the buffers we have now are not working? Are pollution levels going up? Are the buffers not big enough now? Staff responded that they have not yet put together that information but can work on that as a special project if request. The PC would like the information if they decide to not increase the buffers. The trouble is isolating which particular thing is causing the problems/pollution.

The PC also asked if other jurisdictions standards have been looked at for marine shorelines. Staff has looked at Jefferson County which is currently working on their draft and all marine shorelines are at 150 feet buffers. Some caveats have been written in also for nonconforming uses.

The Shoreline Master Program does encourage the removal of nonconforming uses. The idea is to take things out that don’t meet certain standards and move them back. By far the biggest impacts on our shorelines are people removing vegetation and arming the shoreline because people are to close, it’s a domino effect.

The Planning Commission would like to hear from the Prosecuting Attorney Jeff Fancher, and see if the County was challenged on a 150 foot buffer would he be able to argue. Staff will be putting together a map of the 117 properties that are affected and also making them larger aerial photos so that the PC can really see what is on some of the properties.

**MOTION:** Commissioner Spaulding moved to approve increasing the marine riparian buffer to 250 feet and setting the management zone to 50 feet. Commissioner Davis seconded. Five in favor. Two oppose. Motion carried.

To clarify Ms. Wilson stated that when they are discussing streams they are talking about fresh water.
No net loss was then brought up. Some comments were received at the public hearing asking staff and the PC not to forget to add it into the document. Ms. Wilson has since gone through the draft and found the verbiage everywhere. Ecology was also contacted about no net loss and asked if anything further needed to be added to the subject and they agreed that it was discussed throughout the document and no changes were necessary.

7:31 PM – Third Party Review

Mr. Deffobis then discussed his memorandum in regards to Third Party Review. The section was revised after the work session on March 7th and also on comments from the public hearing. In section 24.05.022 the letter B was moved up as basically a bullet point than after each type of scenario. Letter B states; The County shall attempt to resolve any issues with the original author(s) or applicant before requiring a third party review. Another condition was also added as number 4 which states; specialized expertise is required for adequate review of a proposal.

The question from staff is does the proposed language in the memorandum adequately capture scenarios when third party review would be appropriate during project review? The text was discussed and it was clarified that if there was a debate between there expert and the approval authority i.e. the director then the application would be sent off to a third party for review. The language that tweaked and added to differentiate between this difference is a “substitute difference of interpretation.” The substitution of the word from select to determine will also be made.

**MOTION: Commissioner Spaulding moved to recommend approval of the draft language presented in the Third Party Review Chapter subject to the discussed text changes. Commissioner Earle seconded. Motion carried.**

7:37 PM – Biosolids

Mr. Davis then discussed the memorandum on Areas of concern for using biosolids. At this time staff is recommending to the PC that they include some regulations in the CAO regarding the land application of biosolids. Staff will be meeting again with Ecology next week to discuss the following: Identification of differences between their actual practices and the proposed requirements in the draft critical areas ordinance; other issues in Thurston County where the use of biosolids may be an issue, including agricultural uses; have a preliminary discussion on a working relationship regarding the permitting of biosolids in Thurston County and identify areas where the County would prefer biosolids no be used.

The existing draft of the CAO addresses all uses except for agricultural uses. Any changes in the proposed Title would not apply to agricultural uses. Biosolids are only restricted in the wellhead protection areas in Chapter 17.15 of the Thurston County Code. Discussion with Ecology staff may lead to limitations on the application of biosolids for agricultural uses in critical areas and other areas where it would not be appropriate.
Staff showed the PC the current recommendation and due to the fact that the County and Ecology still do not agree on the permitting process and further discussion is required the PC decided to table the item of Areas of Concern for Using Biosolids until said discussions can take place with further information provided.

The item Areas of Concern for Using Biosolids was tabled until the next Planning Commission meeting on April 4, 2012 when staff will bring an update back to the PC.

Chapter 24.50 Nonconforming Uses was also not discussed and will hopefully also be discussed as time allows at the next PC meeting.

8. **7:47 PM ADJOURN**

With there being no further business, Chair Lane adjourned the meeting at 7:47 p.m.

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Chris Lane, Chair

Prepared by Carrie Toebbe, Recording Secretary