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

Chair Lane called the May 2, 2012 meeting of the Thurston County Planning Commission to order at 6:30 p.m. Commissioners provided self-introductions.

**Attendance:** Chair Chris Lane, Commissioners Jennifer Davis, Scott Nelson, Bill Jackson, Ed Fleisher, Kathleen O’Connor, Liz Kohlenberg & Christine Spaulding

**Absent:** Chris Earle

**Staff:** Scott Clark, Andrew Deffobis, Jeremy Davis & Cynthia Wilson

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

**MOTION:** Commissioner O’Connor moved to approve the agenda. Commissioner Nelson seconded. Motion carried.

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

**Commissioner O’Connor moved to approve the December 7, 2011 minutes and accept the audio as the official record. Commissioner Nelson seconded. Motion carried as amended.**

Commissioner O’Connor asked for clarification on page 3, lines 1 and 2. The intent of her request was that a new version of documents are easily identifiable with version control and do not have the same name as previous versions.

3. **6:31 P.M. STAFF UPDATES**

Mr. Clark provided the following staff updates:

- Next Thursday at 9:45 a.m. Staff and the volunteered members of the PC will start interviews for the new planner. There are currently six candidates.
- The BOCC had a briefing today from a consultant on impact fees and they are at about a 90% solution. The Board directed staff to take impact fees to public hearing and there is one more meeting with the school districts to see how many want to sign on at this time. This could be taking place around mid June with a ninety day waiting period afterward for people to get used to the system in place.
- Bill Jackson asked for business cards.
- CAO was tentatively on the calendar for May 9th if further review was needed however it was asked if the PC would meet regardless to start further review of mineral lands, specifically on asphalt batch plants.
4. **6:37 P.M. PUBLIC COMMUNICATIONS** (Not associated with topics for which public hearings have been held.)

1. Howard Glastetter – 11110 Kuhlman Road Olympia – Wanted to speak in regard to the CAO and since the public hearing has already been closed Mr. Glastetter was asked to either testify before the board or write his comments out and give them to the TC Board of County Commissioners.

2. Jami Balint – P.O. Box 88028 Tukwila, WA 98138 – Requested that we change the policy in regards to Planning Commission taking public comment after a public hearing.

The official audio is available on line at:

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

   
   *Staff: Andrew Deffobis, Scott Clark & Jeremy Davis*

Mr. Davis started the work session. The memorandum that was sent to the PC was cited. The Planning Commission received two public comments that directly addressed mineral extraction, which were also attached to the memorandum that was sent to the PC. A short summary of each was then described. A more in-depth summary is provided in the December 10, 2011 public comment matrix dated February 2, 2012. Other comments were received that did not directly reference mineral extraction, but were also considered when reviewing comments about a specific use. Some of these comments either proposed more restrictive regulations generally, or supported the proposed critical areas regulations and their associated habitat protections.

Comment #107 Dave Lewis, Miles Sand and Gravel

- Difficult to comment when regulations are not complete, will offer specific comments in future

- Draft disregards County Mineral and Asphalt Task Force’s recommendations on citing of asphalt and concrete plants in Category I CARAs

- Best management practices can eliminate harmful effects to aquifers

- Sand and gravel mining, and concrete/asphalt plants should be allowed subject to critical areas permit

Comment #111A-E Jami Balint, Segale Properties

- Draft CARAs (24.10) and Habitat (24.25) chapters may be overly burdensome
• Prohibiting sand and gravel extraction from Category I CARAs will have negative impacts; in conflict with requirement to designate/protect natural resource lands
• BAS should guide development of regulations, not be used as justification after the fact
• BAS does not support outright restriction on mining in Category I CARAs
• Sand and gravel mining is different from other types of mining; sand and gravel mining is highly regulated
• Prairie definition does not follow BAS.
• Restrictions related to prairie habitat should be kept to portion of property considered prairie
• Restrictions on gravel mining seem inconsistent with allowances of other uses in Table 24.10-1; allow mining in Category I CARAs if it can be done safely

Staff has gone through and re-reviewed the regulations in the draft ordinance that was presented for the public hearing last December. These are the same regulations that were presented back in 2005, 2006 and 2007 and the table was virtually the same. There were some differences between the 2007 and the 1996 draft.

CARA regulations will be re-reviewed by the Planning Commission but staff went through with a re-review and has the following response to the comments. Restriction of mining in CARA I is not in conflict with the need to designate natural resource lands when a critical area is present. Staff did mark the allowance for mining within the use table in CARA I. That particular mining would be limited to above the high ground water mark. That is consistent with King County’s regulations. The Growth Management Act and associated sections of the Washington Administrative Code require the county to protect critical areas as well as designate natural resource lands. Mineral land designation does not mean that unfettered mining may take place.

Other concerns regarding gravel mining ability will be addressed by mineral lands compliance and use permit criteria work currently being conducted by the County. Set-asides for prairie habitat are limited to the extent of prairie habitat identified by a habitat management plan.

Commissioner O’Connor questioned the “Mining, Sand and Gravel” entry in table 24.10-1. We have in terms of wellhead protection other CARAs I, II & III. In the table there was a typo and there should be a “P” under other CARA I and CARA II and III. There was a public comment that prompted the reorganization of the table because prior it wasn’t clear wellhead protection was under the umbrella of CARA I.

On the table staff changed an “X” to a “P” to permit mining above the high groundwater table. The City of Olympia commented on section 24.10.150b, and that they wanted more criteria than turbidity so staff added quality, quantity and temperature. Those were the changes in CARAs.
In Geologic Hazards staff added batch plants to page seven within the table and prohibited it within land slide hazard, marine and bluff hazard and erosion hazards. The asphalt batch plants would then be subject to the general standards and geologic hazards.

Asphalt Plants were already prohibited in frequently flooded areas. Mineral extraction is the same as not being allowed in any of those areas but are allowed in high groundwater hazard areas.

Within Chapter 24.30 Wetlands, the table did not include the asphalt batch plant as a use, so staff added it. The same allowances for mineral extraction would apply to asphalt batch plants.

Staff did make changes to section 24.30.220. Some words were added to mention the designation requirements for mineral lands. Commissioner Nelson had a concern that someone could read the designation requirements that they cannot have a mine unless it is designated. Currently you can only get a use permit for a mine if you’ve already been designated. Unless of course you have a historic use or are grandfathered into the University Place case.

**Commissioner O’Connor moved to recommend going forward with the modifications that were made this evening. Commissioner Kohlenberg seconded. Motion carried.**

The next section that was discussed was Agricultural Uses. As staff analyzed the relationship between title 24 and chapter 17.15 they realized there was a loop hole. Someone could come in and pose as an agricultural use, destroy a critical area and then three years later turn around and propose a non agricultural use with the critical area destroyed or damaged. The County currently has no requirement for restoration especially if that was to be the case. This is because of the applicability sections and how everything is defined. Staff is trying to remedy this and the text changes are within the memorandum that was sent to the PC by e-mail on May 1, 2012. Staff also tried to add the Voluntary Stewardship Program (VSP) to Chapter 17.15.365 and is also proposing to add it to Title 24. Under the new proposals, a farmer could seek to amend the CAO requirements for a new agricultural use through the VSP and an individual stewardship plan. To bridge the time from the adoption of the proposed amendments to the CAO and the time when the VSP is up and going, staff will also propose to permit individual stewardship plans. The individual stewardship plans could include variances to the standards in proposed Title 24. The farm plans would allow alternative CAO standards in lieu of the critical area regulations proposed in Title 24 with Chapter 17.15 TCC used as a base. Best available science would be required in the development of the individual stewardship plans. Consultation with local subject matter experts would be required. Subject matter experts would include the TC Conservation District, the Washington State Conservation Commission, the WSU Agricultural Extension and applicable state and local agencies. Individual stewardship/farm plans are permitted in other jurisdictions including but not limited to King County, Skagit County, and Whatcom County.
One other issue being discussed is the minimum farm size for the purposes of regulating critical areas and deciding which set of regulations will apply. The current definitions for agricultural uses do not have a minimum parcel/land area size, and would not effectively differentiate between a garden that is accessory to a residential use and an agricultural use. Based on a review of current Long Term Agriculture designation criteria and agricultural use definitions from other jurisdictions, a minimum size should be added to the definition for existing and ongoing agricultural use.

**Commissioner Spaulding moved to approve of the general concept of the memorandum, which is the intent to close the loophole on agricultural uses.**

**Commissioner O’Connor seconded.**

Commissioner Nelson brought up discussion about adding regulations to agricultural uses after the public hearing. Commissioner Davis agrees with Commissioner Nelson in seeing the importance in closing the loop hole but feels like there has not been enough public discussion in regards to the process proposed at this level.

Ms. Wilson brings up that staff is being consistent with existing and ongoing agriculture which is exactly what has been said from the beginning of the process but acknowledges that staff recognizes the potential for new agriculture to try and fall under the old regulations.

It was also brought up that after the PC makes this recommendation can the Board of County Commissioners make any changes? The answer is yes they can because they also have to hold a public hearing. Mr. Clark will be discussing this concern with the County’s Prosecuting Attorney, Jeff Fancher and will ask him to write down the rules and send them to PC for clarification. The BOCC’s attorney will speak with them about the procedure as well.

As the recommendation would go forward it would be only to close the loop hole from the PC. The Agricultural Committee would then have their own version to submit to the BOCC. The actual memorandum that was agreed to by the PC would not be changed by another committee but certainly would go before the BOCC during the public hearing. This proposal does not affect existing agricultural uses, and in the spirit of new agriculture it follows the intent of the Voluntary Stewardship Program (VSP) which was derived from the Ruckelshaus process.

The PC supports the concept of closing the loop hole but are concerned with the public process and feel that there needs to be more public involvement including the Ag Committee’s recommendation. This particular issue came up after the PC public hearing.

Commissioner Spaulding chose to reword her previous motion.

**MOTION: Commissioner Spaulding moved to support the concept of the Voluntary Stewardship Program and the language around closing the loophole between the VSP and the agricultural rules Chapter 17.15. Further, this came to the PC after**
the public hearing so the PC feels the responsibility to the agricultural community to have more public process. Commissioner Kohlenberg seconded.

Commissioner Kohlenberg clarified that the PC recommends the concept and the PC likes the language but they all know there is going to have to be more process.

Then Commissioner O'Connell stated that the following reasons are why she believes the PC should separate the motions:

1. They like the concept.
2. It needs more input and then the PC needs to discuss if people like the language enough to say we will take a look at this more.

Commissioner Spaulding chose to revise her motion for a third time.

MOTION: Commissioner Spaulding moved that the Planning Commission supports the concept of closing the loophole that is represented in this memorandum. Commissioner Kohlenberg seconded. Motion carried as amended. Commissioner Nelson opposed.

MOTION: Commissioner Fleisher moved that the PC include the language in what is forwarded to the BOCC with a footnote that refers to the motion that just passed. Commissioner O'Connell seconded. Two Commissioners opposed.

The PC members then went through a recap of the discussion and the recently made motion that means the language will go forward to the BOCC without a recommendation from the PC because the PC hasn’t had the public process for this language. This is just the beginning for the PC to start review of this idea and it would take further work to recommend it.

MOTION: Commissioner Kohlenberg moved to recommend moving the CAO forward as amended by the Planning Commission and staff. Commissioner Spaulding seconded. Motion carried as amended. Commissioner Nelson opposed.

Commissioner Davis brought up that within the Fish and Wildlife Habitat Conservation Areas Chapter on page 3 within the applicability section it says “all property.....as defined in WAC and or associated buffers required by this chapter...” The purpose of bringing this section up is that Commissioner Davis believes we go beyond both of those things because we include additional areas that are not listed species within our table but are priority species. Therefore the chapter sites that priority species and habitats which include non listed and non locally important species are covered so the sentence needs to be amended to capture that. The suggestion was to add to the sentence after “associated buffers required by this chapter” adding “and additional areas designated by this chapter are subject to this title.” Staff will be making this change.

Also on page 37 of the same chapter golf courses are discussed at the top of the page
which includes standards for a golf course. Within the table it shows an X and it will stay that way since there are specific standards. The point is to try and keep the golf courses out of specific habitat areas and if it were changed to a P within the table then the verbiage would have to change for specific standards or would not be adversely impacted would have to change. The title for 275 is exactly the same as title 270 and will be corrected. On page 54 within the table displayed as wildlife species of local importance the words preliminary list and proposed additions will be taken out because it is the final list. On Chapter 24.10 CARAs title the numbers need to be corrected.

Within the special reports section staff had asked the PC for feedback. The general thought from staff was if the standards for waiver of special reports appropriate. The option from Mason County was discussed. Commissioner O’Connor likes the idea but within the Mason County wording it says the proposed development will not cause significant adverse impacts. The approval authority needs to be added with or without required consultants. This is within 24.35-10. On page 17 under 12-a, the year process does not seem long enough but the peak storm events is more important than specifying a time. The sentence will be changed to say “an estimate of the amount and percentage increase of added storm water that will be infiltrated as a result of the proposed development both during peak storm events and month by month over an average one year period.”

On Non Conforming uses on page 6, f the 5,000 square feet is the provision that was voted to keep. A minority report will be written and indicated after voting.

Commissioner Nelson wanted to state why he disagreed with moving the CAO forward. His main concerns are that the buffers are too large; specifically the buffers being regulated on a high intensity use. There are issues on the bigger scale of balancing GMA goals and the issue that came up tonight with agriculture and public process.

6. **8:07 P.M. CALENDAR**

May 9, 2012 – Chair Lane called a special meeting on May 9th and a quorum will be present.

7. **8:08 PM ADJOURN**

With there being no further business, Chair Lane adjourned the meeting at 8:08 p.m.

Chris Lane, Chair

Prepared by Carrie Toebbe, Recording Secretary