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

Chair Lane called the May 9, 2012 meeting of the Thurston County Planning Commission to order at 6:30 p.m. Commissioners provided self-introductions.

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

**Absent:** None

**Staff:** Scott Clark, Cynthia Wilson, Jeremy Davis & Olivia Story

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

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

3. **6:30 P.M. PUBLIC COMMUNICATIONS** (Not associated with topics for which public hearings have been held.)

   *No public attendance.*

The official audio is available online at:

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

4. **6:30 P.M. STAFF UPDATES**

Mr. Clark provided the following staff updates:

- There are currently two candidates for the Associate Planner position that was open. The interviews are tomorrow.

Mr. Clark stated that the intent this evening and the special meeting was to take the PC through a power point presentation that addresses key issues that have come up in regards to asphalt plants. After the power point presentation Mr. Davis will address his memorandum and other things that were either not addressed in the presentations or earlier. Afterward, the situation will be assessed to see if the PC feels comfortable enough to set a public hearing or if they need further information.

A member of the audience that just joined the meeting was asked if they would like to speak and Chair Lane decided to oblige.
5. **6:33 P.M. PUBLIC COMMUNICATIONS (Not associated with topics for which public hearings have been held.)**

1. Howard Glastetter – 11110 Kuhlman Road Olympia, WA 98513
   Spoke in regards to Asphalt Plants and Gravel Mines.

6. **6:38 P.M. Work Session: Asphalt Plants**
   *Staff: Cynthia Wilson, Scott Clark, Jeremy Davis & Olivia Story*

The original memorandum that went out with the original changes in it has had some additional revisions. To keep that tracking, staff took the key issues and made a power point presentation to discuss each issue one at a time. The issues that staff is looking to resolve in the staff presentation are accessory uses or special uses, 1,000 foot setback, trails, recycled asphalt plant protective covering with tarping and then literally the number of plants.

Setbacks were the first slide and discussion. Asphalt plants shall be separated by a distance of 1,000 feet from public parks and public preserves, which include parks, regional trails, national wildlife refuges, state conservation areas, wild life areas, and other government owned preserves. In addition, asphalt plants should be at least 1,000 feet from the boundary of any residential zoning district with an existing or zoned density of greater than 1 dwelling unit per 5 acres, urban growth areas, and any residential lot less than one acre in size. Setbacks shall apply to all components of the hot-mix asphalt facility, including buildings, structures, machinery, equipment and material storage.

The BOCC suggested adding trails to the list as noted in the staff text change above. The town of Babylon, New York has even stricter setback restrictions. No site containing an asphalt manufacturing plant shall be located within; 2,000 feet from sensitive institutional, residential and/or public uses, including churches, schools, libraries, hospitals, assisted-living and long-term-care facilities, and park and recreation areas; 1,500 feet of residually zoned property and 750 feet of residential uses in a nonresidential zone.

The Asphalt Advisory Task Force unanimously recommended setbacks between 300 and 500 feet. The minority supported between 500 and 1,000 and ORCA suggested buffers on modeling that exceed 1,000 feet.

Commissioner Earle brought up a concern about adding trails to the definition as regional trails in Thurston County mostly means former railroads right-of-way. Most railroad right of ways run through industrial areas. The discussion would be to see if it might be an unnecessarily restrictive requirement. He also asked about the usual SEPA compliance pathway for new asphalt plants. Ms. Wilson stated that as far as she knows there is nothing specifically that triggers SEPA for an asphalt batch plant. Usually they are associated with gravel mining so the grading and fill itself requires it. Unless there is something specific within the Environmental Health Code, there is nothing in the regular

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SEPA rules that require an asphalt batch plant to go through SEPA. The PC would like to see a map showing the areas that will be left after all the defined areas are mapped out. The PC has had a lengthy discussion about the 1,000 buffer previously. What was discussed at that point was what is emitted from a hazard waste generator then the WACs were compared and that is where the 1,000 buffer originally came from. The PC would also like to see another smaller sized buffer for the public to comment on at the public hearing. Commissioner Earle would like to see a more performance based metric that is in line with the metrics that are in use by the air quality agency to evaluate the potential adverse impacts to the plants. This would possibly allow tiered criteria with ORRCAAs criteria in setting a performance standard for asphalt plants in the County. Commissioner O’Connor would like to move forward with Commissioner Earle’s suggestion also. Mr. Davis is in discussion with ORRCA to see if they would come discuss this concern with the PC and see how they map these areas. The meeting he is trying for is the first meeting in June. The PC is particularly interested in what their performance standards are and what potential impacts do they evaluate and weigh them? Once the PC has that information then they believe they will be able to look at some different types of resources that the County should take a look at. Once all of this information has been exchanged then staff and the PC can start looking at how it relates to different types of resources that were concerned about protecting and determine if a 1,000 buffer is appropriate.

Accessory Uses was then discussed. Asphalt plants are considered an accessory use on mineral extraction sites, with an SUP (special use permit). Courts view SUP as an implied permit since it is cited as an accessory use to a mineral extraction site. So what is said in the current code is since you considered an accessory use with a mine the SUP is virtually automatic. Staff is proposing taking the following language to the public hearing for comment:

Asphalt plants must be in, or adjacent to, an active gravel mine. The parcel upon which the asphalt plant is located shall be a minimum of 40 acres individually or in combination with an existing gravel mine parcel or parcels. Thurston County considers a proposed asphalt plant/facility as a new industrial use and not an accessory use to mineral extraction.

Since accessory use will be deleted from the mineral extraction list the text listed above would cover the issue. This is because in section 21 of 20.54 the code specifically named asphalt plants as an accessory use and that will be taken out.

**MOTION:** Commissioner O’Connor moved to take forward the modification to Accessory Uses to the public hearing for comment. Commissioner Kohlenberg seconded. Motion carried. Commissioner Nelson abstained.

Commissioner Fleisher and Commissioner Davis still have concerns with the first sentence because of previous discussion that concluded that there is no particular reason why an asphalt plant has to be co-located with a gravel mine. Mr. Clark stated that all this language does is de-link the two and the issue will be discussed further when the
slide discussion the issue of co-location comes up again or can they be someplace other than a gravel mine.

The next slide was to discuss Recycled Asphalt Pavement Protective Covering (RAP). The issues for discussion are that exposed RAP stockpiles are exposed to stormwater runoff, toxins on the RAP may be rinsed off, Wet RAP takes more fuel to dry before it can be used and the majority of the Asphalt Advisory Task Force recommended against covering RAP. The way staff looked at these issues is that there is already regulation within the drainage manual that discussed stockpiles and RAP and it also determines the best management practice for stockpiles. Commissioner Jackson passed out pictures from a site visit to an asphalt plant that the PC went to a couple of years ago including a picture of a RAP stockpile. Staff will be scanning the picture and adding them to the record. Commissioner Nelson commented on the sentence involving the Asphalt Task Force and said that from what he remembers the majority of the asphalt task force recommended against requiring covering of RAP. He does not believe that they said that they don’t want to be able to cover RAP it was the requirement. Staff is requesting that the PC go forward with the language that is within the Drainage Manual because it is a case by case, permit by permit scenario. It evaluates the site and evaluates what needs to be done as opposed to a blanket requirement to cover it. Again staff would like to recommend referring to Volume IV Section A4.1 of the Thurston County Drainage Manual. The PC did not receive the section of the Drainage Manual section A4.1 so staff will e-mail them a copy. The PC would like to send forward the language for both options to be commented on at the public hearing. The first option being covering and the second being staff’s with the Drainage Manual language.

The Board of Commissioners met on April 25, 2012 to discuss the permitting of asphalt plants. As a result of their meeting, they asked staff to review several issues with the Planning Commission. The first is in order to reduce the potential negative effects of asphalt plants, (noise, air quality, traffic) the Board suggested limiting the number of plants allowed in the County at any one time. After the staff reviewed this they recommended that this would not be appropriate.

The Board also asked whether to allow the continued use of existing asphalt plants once the gravel mine has closed. For instance, if an existing gravel mine closes, any asphalt plant located in that mine could be allowed to request a new SUP to continue operation in the same location. Right now if a gravel mine terminates its operation the asphalt plants has to close as well. In King County they allow them to stay under limited circumstances as long as they comply with the new criteria.

**MOTION:** Commissioner Spaulding moved approval of the proposal to allow existing asphalt plants to continue even after the gravel mine has closed to go to public hearing as an option. Commissioner Davis seconded. Motion carried.

In regards to Recycled Asphalt Pavement (RAP), the Board asked staff and the PC to define what “covered” means in the proposed regulations. There are several options, such as a tarp, a roof, a walled or an un-walled building. All of these options attempt to
keep the rainwater off. This would eliminate storm water runoff, and higher fuel usage to
dry the materials. The Drainage Manual does not have a definition for the word
"covered". When something must be covered, it specifically states the kind of cover it
requires, such as plastic or structure. The PC would like to send it to the public hearing
the way it is to get public comment to see which way the covering goes.

The following are issues that staff suggest should be added and go forward to the public
hearing:

1. Add a provision to require ongoing monitoring and reporting.
2. Add provisions to allow for management of production rate/volume – based on air
quality standards.
3. Add a provision to require modeling for all use permits.

ORCA suggests this is a good step. With the added provision of ongoing monitoring and
reporting we would monitor and report if they run rye with standards there suppose to
meet then we request that they actually lower their production.

MOTION: Commissioner O'Connor moved to require staff to add additional
specifications in their words because they are from a power point presentation but
these things happen in practice and we should codify them so she moves to let the
PC see how staff would codify them. Commissioner Spaulding seconded. Motion
carried.

The rest of the discussion moved to Mr. Davis covering the memorandum. There has
been a question on which regulations would govern when there may be a conflict.
Specifically when one section of the Thurston County Code, Title 20 TCC, permits an
asphalt plant and when another section prohibits an asphalt plant because of critical areas,
Chapter 17.15 TCC and proposed Title 24 TCC.

Chapter 17.15 TCC, the Existing Critical Areas Ordinance
Section 17.15.405 TCC gives clear direction when there is a conflict between regulations
for an area in the critical areas ordinance jurisdiction. This section very clearly states in
(A) that when a specific use is prohibited by Chapter 17.15 TCC, then it is prohibited
whether or not it would be permitted under a separate regulation in the Thurston County
Code. Section 17.15.405 reads as follows:

17.15.405 - Administrative actions—Application of conflicting requirements.
A. Any uses or activities prohibited by this chapter but allowed by any other county
ordinance or plan are prohibited.
B. If compliance with this chapter and any other county ordinance or plan is
physically impossible, the provisions of this chapter shall govern.
C. In cases other than those described in subsections A and B of this section, a use or
activity governed by both this chapter and other county ordinance or plan is
subject to the provisions of each.
D. Where two or more critical areas overlap, the provisions applicable to each shall
apply. Under this rule, a use prohibited within a critical area and its buffer would
also be prohibited in the area of its overlap with another critical area. Similarly, the larger of any buffer or other requirement would apply in the area of overlap (refer to Figure 2).

E. When Parts 500 through 900 refer to the guidance from the Shoreline Master Program for the Thurston Region (1990), as amended, these standards will also apply to those critical areas which may not be within the Shoreline Management Act jurisdiction, provided that critical area does not conflict with

Proposed Title 24 TCC, the New Critical Areas Ordinance:
Proposed Section 24.01.030 (C) and (D) give direction on which regulation controls when there is a conflict in the proposed critical areas jurisdiction. Proposed section 24.01.030 currently reads as follows:

24.01.030 Interpretations.

C. When interpreting and applying the regulations of this code, its provisions shall be the minimum requirements, unless otherwise stated.

D. Where conflicts occur between the provisions of this title or between this title and other regulations, the more protective of critical areas shall apply except as otherwise provided for in this title. When conflicts occur between meeting minimum land use densities and the provisions of this title, the provisions of this title shall apply. The county may waive minimum density requirements to protect critical areas, as determined by the director.

The language above is not as explicit as Section 17.15.405 on the allowance of uses. Staff will be working to add subsection (A) from Section 17.15.405 TCC to proposed Section 24.01.030 prior to the Board of County Commissioners public hearing on the proposed new critical areas ordinance.

Title 20 TCC, (Rural) Zoning
Section 20.05.020 TCC gives direction for areas in the jurisdiction of Title 20 TCC when two regulations conflict. However, this section could be interpreted as a bit ambiguously worded and needs to be clarified. Section 20.05.020 reads as follows:

20.05.020 - Intent.
No structure shall hereafter be erected and no existing structure shall be moved, altered, added to or enlarged, nor shall any land or structure be used, or arranged to be used for any purpose other than is included among the uses listed in the following chapters as permitted in the zoning district in which the structure or land is located, nor shall any land or structure be used in any manner contrary to any other requirements specified in this title. See Chapter 20.56 for additional details.
Staff recommends that the Planning Commission consider amending this section to clarify which regulations governs when. Recommended additions to this section are underlined below.
20.05.020 - Intent.
No structure shall hereafter be erected and no existing structure shall be moved, altered, added to or enlarged, nor shall any land or structure be used, or arranged to be used for any purpose other than is included among the uses listed in the following chapters as permitted in the zoning district in which the structure or land is located, nor shall any land or structure be used in any manner contrary to any other requirements specified in this title. If the requirements of this title conflict with other requirements of this title, or the requirements of any lawfully adopted rules, regulations, or ordinances, then the most restrictive, or those imposing the higher standards shall govern. Any uses or activities allowed by this title but prohibited by any other county ordinance or plan are prohibited. Regardless of any other provisions of this title, no land shall be used and no structure erected or maintained in violation of any state or federal pollution control or environmental protection law or regulation.

With the proposed code amendment above, staff also recommends that criterion (l) in proposed subsection 20.54.070(3), which has criteria for the approval of asphalt batch plants, be deleted as it is no longer necessary.

MOTION: Commissioner O’Connor moved to take the above language to the public hearing. Commissioner Spaulding seconded. Motion carried.

Attachment B was then gone through for changes associated with the motions made this evening. The last sentence in a. was removed because the setback is based on the plant itself for air quality not machinery. It would be 1,000 feet from the pollution source. The sentence will be removed. To clarify b. there is two options; one is to have the asphalt plant only associated with a gravel mine or separate from that have an asphalt plant in an industrial zone. Staff and the PC would then have to specify which zones those would be and then another option would be are those permitted as a commercial building permit or should they be permitted through a special use permit. There are several options for zones but right now staff is just talking about the Rural Resource Industrial (RRI) that is really just in one location. There are five locations zoned RRI within Thurston County and the one location would be Maytown and Interstate 5.

Chair Lane then asked for a show of hands on who would like to get rid of the language that says that it has to be co-located with an active gravel mine. Only one Commissioner raised their hand. The language will remain for the public hearing.

The table that goes with Attachment B was amended as well. Staff took out the R 1/20 and R 1/10 zones. Those zones were established as environmental protection zones more so the R 1/20 around the Black River but also the R 1/10 around the Salmon Creek Basin. Asphalt batch plants are allowed in these zones only when they have an Asphalt Plant special use permit. The PC would like to see both options for the public hearing whether or not it has to be co-located or stand alone.

Commissioner Davis asked staff to go back and find the definition from the task force for a haul route because it is a high traffic activity. Removing R 1/5 for asphalt plants was
also discussed and the PC wanted that option for the public hearing as well.

The letter e in attachment B will be modified with the text that was discussed this evening. G will be left as an option for public hearing which will be changed to the letter f as f will be combined with the letter e. Therefore the new letter f which states that asphalt plants shall provide necessary space to accommodate deliver trucks on the site will be discussed with the Thurston County Roads Department to see if it is a standard requested by them.

The discussion of adding diesel as an option within the new letter I was gone through. The PC would like to hear what ORCA's perspective is in regards to using diesel sense it is a high pollutant other than the alternatives that were suggested in letter I. No changes were made to letter j. Letter k was stricken due to earlier comments.

Commissioner Spaulding has a concern that temporary asphalt plants are allowed for twelve months and the in the future they will be using warm mix plants to transfer the asphalts to longer distance with more asphalt plants being utilized. Twelve months seems significant for pollutants. The administrative use permit is utilized for a temporary asphalt plant. Staff will be reporting back with further information with this concern.

A brief discussion was had in regards to setting the public hearing for Asphalt Plants.

**MOTION:** Commissioner Spaulding moved to set a public hearing on the draft with the options that the PC included tonight on June 20, 2012. Commissioner O'Connor seconded. Motion carried.

**MOTION:** Commissioner Nelson moved to cancel the May 16, 2012 regularly scheduled Planning Commission meeting. Commissioner O'Connor seconded. Motion carried.

7. **8:08 P.M. CALENDAR**

June 6, 2012 – All Commissioners will be in attendance.
June 27, 2012 – Chair Lane, Commissioners Davis & O'Connor will not be in attendance.

Chair Lane decided to give the members of the audience a chance to speak again due to the relocation of the meeting within a different building and meeting room.

8. **8:10 P.M. PUBLIC COMMUNICATIONS (Not associated with topics for which public hearings have been held.)**

1. Dean Smith with Lakeside Industries – No address given
   Spoke in regards to Asphalt Plants and Gravel Mines (RAP).

2. Dave Lewis with Miles Sand & Gravel – No address given
   Spoke in regards to Asphalt Plants and Gravel Mines (RAP)
9. **8:15 PM ADJOURN**

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

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Chris Lane, Chair

Prepared by Carrie Toebbe, Recording Secretary