



## JEFFERSON COUNTY

### PLANNING COMMISSION

621 Sheridan Street

Port Townsend, WA 98368

(360) 379-4450

#### Notes for the Critical Areas Committee Meeting

April 26, 2007

WSU Learning Center

Shold Business Park, Spruce Room

Port Hadlock, WA

Planning Commission members: Bud Schindler, Peter Downey, Henry Werch and Mike Whittaker (Edel Sokol, alternate)

Advisory Group members: Al Latham, Amy Hiatt, Bill Wheeler, Cathie Baker, Dennis Schultz, Dr. Diane Johnson, Dianne Bonnivier-Holman (alternate), Dr. Kenneth Brooks, Dr. Robert Crittenden, George Yount, Jill Silver, Jim Hagen, Jim Tracy, John Richmond, John Boulton (alternate), Julie Jaman (alternate), Kathy Dickson (alternate), L. Katherine Baril, Nancy Stelow, Norman MacLeod, Roger Short, Ron Sikes, and Sandy Hershelman.

Staff: Brent Butler, Joel Peterson and Cheryl Halvorson

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The Planning Commission Critical Areas Committee meeting was called to order at the WSU Learning Center, Spruce Room, at 7:00 pm by Chair Bud Schindler. Planning Commission members present were Bud Schindler, Mike Whittaker, Peter Downey, and Henry Werch. Advisory Group members present were Amy Hiatt, Bill Wheeler, Dennis Schultz, Dr. Diane Johnson, Dr. Kenn Brooks, Dr. Robert Crittenden, Jill Silver, Jim Hagen, Jim Tracy, John Richmond, Kathy Dickson, Norman MacLeod, Roger Short, and Sandy Hershelman.

DCD staff present were Brent Butler, Joel Peterson, and Cheryl Halvorson.

There were about 10 members of the public present. Those who signed the guest list were: Clark Crandall, Teren MacLeod, Jim Storey, Frank Hoffman, Ross Goodwin, Al Latham, and Larry Bonar.

#### Staff Report:

Joel Peterson reported on the staff meeting with Eric Toews on this date.

Joel Peterson reported that the Planning Commission will hold an extra meeting on May 9. Mike Whittaker asked if Eric Toews will attend the report presentations meetings. Brent Butler responded that the question remained outstanding, explaining the number of meetings he would attend under his contract. Mr. Whittaker thought the presentation meetings would be key ones.

Bud Schindler said that the extra Planning Commission meetings were scheduled for May 9 for continuation of the report presentations and May 30 for a presentation by DOE. He asked if the May 30 date had been confirmed with DOE. Brent Butler replied that it was tentatively scheduled and would be confirmed in about a week. Mr. Schindler asked that the committee be notified as soon as it was confirmed.

Public Comment:

Denver Shoop said it appeared that, since there was now money to hire a facilitator, the county had lied to us. He thought, if there was so much money, that the committee should send the county a bill for the time Kenn Brooks, Jim Tracy and Norm MacLeod had spent in writing this material.

James Fritz apologized for not being present to film the last committee meeting. He spoke about the sea lions and their numbers and how many salmon they ate in a day. He handed out a news article on the subject. The sea lions numbers had increased while the salmon had decreased. He said there was a multi-million dollar business in salmon restoration in trying to save the salmon, but it should be acknowledged that there are other reasons why the salmon have declined.

Jim Hagen thanked James Fritz for donating his time and money in filming these meetings. He has done the county a tremendous service. The committee applauded him.

Review and Possible Approval of Proposed Administrative Section:

Jim Tracy reported that he and Mr. MacLeod had completed their assigned task of completing the committee's reports to the Planning Commission. He noted that each report contained a memo for the committee members to sign and summarized the memo's contents. He described the nine reports that will be handed around for signatures. He said he also had a complete compilation of all of the reports into one document. He will provide all of them electronically to staff for dissemination and for the web site.

Jim Tracy summarized the Administrative section. The objectives of the draft section were to streamline and reduce redundancy, eliminate material that no longer has a purpose, and also introduce a couple of new concepts. The first new concept is a section on physically separated and functionally isolated buffers. The second concept relates to the reasonable economic use exception, with two subsections - one for single family residences on existing lots and the other a general section. The important principle of these that was somewhat revolutionary is the principle that once a citizen of this county shows that the regulations have removed all reasonable economic use from their property, the burden of proof shifts from that person to the government to bear the cost and develop the solution to having injured that party's reasonable economic use of their property. That is a huge shift from where the burden of proof now lies.

Jim Tracy said that another over-arching agreement on the committee was that the May 17 draft was not a satisfactory product. He believed what the package of majority and minority reports proposes is a repeal and replacement of the May 17 ordinance draft with something better. Jill Silver clarified that the content of the May 17 draft was pretty good; it was the structure and the "use-ability" of it that everyone agreed needed improvement. Mr. Tracy responded that we all had different reasons for why the May 17 draft was not acceptable. Some on the committee thought the May 17 draft was substantively flawed. The important thing was that there was universal agreement on the end product.

Bill Wheeler asked if the material he had sent on vegetative management was incorporated somewhere. Jim Tracy replied that it was not. However, it should be understood that there will be other opportunities to add such information.

Jim Hagen asked if there was an opportunity to tweak the reports to include some issues that have not been addressed. Examples were non-conforming uses and critical areas on adjacent property. Jim Tracy responded that there were a lot of things that were not in the drafts. Mr. Tracy and Mr. Hagen discussed how to deal with such issues.

Henry Werch suggested that the committee sign off on the validity of all of the reports. Likewise, recognize that by May 2, the committee could submit supplemental information to the reports as part of the reports presentations to the Planning Commission. He also supported additional information being submitted during the Planning Commission's review process. He was not concerned about having too many choices. He was concerned about the Planning Commission not hearing as much as they need to about all the options. Bud Schindler said that the Planning Commission has always welcomed public comments. So, if there are other issues that should be brought up, he urged that they be brought to the Planning Commission during its review process. The committee discussed whether a motion was in order. Jim Tracy said that the issue was that later submissions would not be a committee action; they

would be from individuals. Jim Hagen said that he would want it understood that they would be in the context of being from the committee. Mr. Werch said that he would support that and would support a motion that would allow for that.

The committee discussed how to add such addendums to the reports. Kenn Brooks noted that Bill Wheeler had prepared at least an almost complete report on the committee's decision with respect to CMZs. He believed that report should be a report of the committee because it was the committee's decision not to include CMZs. He asked that Mr. Wheeler be given an opportunity at this meeting to present his report, and that the committee provide its direction, and that the committee approve that report so that it is a product of the committee.

Henry Werch moved that the committee recognize that our signatures on the transmittal documents also allow for addendums for the reports to be submitted through the end of the month (by May 1) by any member of the committee. Jim Hagen seconded the motion.

Bill Wheeler suggested a friendly amendment that those addendums be offered through the people who have been working on the issue. The committee discussed how to add such reports and to review them via e-mail without running afoul of the Open Public Meetings Act.

The motion was withdrawn since it did not appear to be required.

Kenn Brooks said that the only things left outstanding were the Administrative section and Mr. Wheeler's CMZ report. He thought the committee could address them tonight, which would basically finish the reports, except for a few minor issues. The committee agreed to consider the Wheeler CMZ report later in the meeting.

The committee returned to the review of the Administrative report. The committee reviewed the section page by page and agreed on some amendments and/or deletions. They accepted the revisions on a page by page basis. The secretary's copy of the draft, including the revisions and votes by the committee, will be submitted for the record of the proceedings.

#### Review of Channel Migration Zone Report Addendum:

Bill Wheeler summarized his report on CMZs which supported the committee majority's recommendation that CMZs not be specifically regulated. He could find nothing in the Shoreline Management Act or the Shoreline Master Program that talks specifically about the need for CMZs. But there is an issue of whether CMZs would overlap those jurisdictions. He said he had not found anything yet on the scientific basis for regulating CMZs. He said he intended to finish the report because he thought it was important to document the information it contained. It provided background information for the conclusion of the CMZ sub-group. He thought it would be appropriate as an addition to that report.

Jim Tracy moved that the committee adopt the Wheeler report as an appendix to the CMZ report with the exception of the last paragraph on the Constitutional basis. Kenn Brooks seconded the motion.

Robert Crittenden thought the CMZs could be included as habitats of local significance through the process that is suggested in the Fish and Wildlife section. Dennis Schultz said that there is provision for designating Fish and Wildlife Habitats of Local Significance, which could include habitat areas in CMZs. Dr. Crittenden said that it would have to serve a fish and wildlife function. Bill Wheeler said that he could likely wordsmith that into the appendix document.

Robert Crittenden said that you could find the science for CMZs in reports from the Flathead Lake Laboratory in Montana. He could provide the abstract. He thought it should be an appendix to the CMZ report.

The motion carried with fourteen in favor and three abstentions (14-0-3).

#### Final Review and Signing of Committee Reports (both Majority & Minority):

Jim Tracy handed around the various majority reports for signature during the review of the Administrative section. Dr. Robert Crittenden and Jill Silver and Amy Hiatt handed around the signature sheets for their minority reports as well.

Discussion on Process for Delivery of Committee Reports to Planning Commission:

The committee and staff discussed who would present each of the majority reports. Robert Crittenden will have some time for his concerns after the Foundational Principles presentation. Then the minority reports were assigned.

Joel Peterson said that there are eighteen reports in total to be presented. While there will be two meetings, the timing of each report was a concern.

Jim Hagen said that apparently there will be a facilitator to help keep the Planning Commission and the presentations on track. The committee debated the need for a facilitator. One issue discussed was how much time each report would or should take. It was important that there be a good flow of information to the Planning Commission. There was the thought that there should be some flexibility in the timing for each subject report because some reports may require more time than others. Some issues that may need to be examined more thoroughly could be the subject of other Planning Commission meetings. The first two meetings should provide an overview of all of the subjects.

Bud Schindler asked that staff provide information on the Planning Commission's total workload and the timing of that so the Planning Commission can figure out how many meetings it should devote to which issues. He thought the Planning Commission should hear all the reports within the two meetings. If more time is needed, the commission can decide that as necessary. Brent Butler said that the Planning Commission had given direction by motion on the presentation of the reports. As it now stands, that should be adhered to, unless there is a change.

Bill Wheeler said that the committee should recognize that it had been asked to prepare a report. It should not be open ended. He thought fifteen minutes was something the committee would have to work with. He suggested a fifteen minute presentation, a ten minute response, and a five minute rebuttal until we get through all the reports. Then, in addition, there should be time for questions and answers. He hoped the Planning Commission would allow each presenter to get through each report without major interruptions. Then we could spend all the time the Planning Commission needs on discussion.

Kenn Brooks agreed that there needed to be sufficient time for the Planning Commission to ask questions. That was where the real value would be. He suggested that staff look to the committee for guidance for the sequence and timing for the reports so that the Planning Commissioners could be pre-reading the reports in the correct order. It was agreed that the sequence should be the order contained in the ordinance, starting with the Foundational Principles, then Administrative, and so on.

Kenn Brooks agreed with Mr. Wheeler that the report process should be the majority report, the minority response, and then a rebuttal time for the majority.

Mike Whittaker said that the Planning Commission had the latitude to move into a third meeting if necessary. Bud Schindler said that the commission could see how much time the report presentations were taking and could then decide if an additional meeting was necessary. He reiterated that the Planning Commission had a lot of workload coming to it this year, so the commission would need to use its time judiciously.

Robert Crittenden thought a lot of the time would be taken in questions and rebuttals. He said the direction from the Planning Commission was for fifteen minute presentations. It should be remembered that they will be an overview. He thought the committee could get through the presentations at a reasonable rate. The committee should expect the Planning Commissioners to read the material.

Jim Hagen wanted to follow up on the idea of an opportunity for a rebuttal. He thought that should be clarified. He had reviewed the committee minutes and up until the first of the year, the committee's votes were at the most two against. He thought the committee had consistently dealt with 14 to 4 margins. He referred to a majority system. He thought the current system really was an equal status. He hoped the Planning Commission would clarify how it would be dealt with.

Norm MacLeod asked that staff provide two projectors and two computers for the PowerPoint presentations as a means of keeping the reports moving.

Jim Tracy moved that the committee forward the entire record from the beginning of the committee's work, including written and recorded and Jim Fritz's videos, to the Planning Commission. Roger Short seconded the motion. The motion carried unanimously (17-0-0).

Jim Tracy expressed concern that the law states that if the BOCC does not make a change to the proposal delivered to them by the Planning Commission, no public hearing is required by the BOCC. He was further concerned that the Planning Commission minutes reflected that Al Scalf had said that staff would forward the same report as the Planning Commission to the BOCC. He wondered how staff could know they would have the same report.

Jim Tracy moved that the committee respectfully requests that the BOCC hold their own public hearing on the proposal forwarded by the Planning Commission whether they see fit to change it or not. Roger Short seconded the motion which carried unanimously (17-0-0).

Jim Tracy moved that the committee request that Jefferson County reimburse Jim Fritz for the actual costs of filming the proceedings on behalf of this committee. Roger Short seconded the motion which carried unanimously (17-0-0).

#### Public Comment:

John Richmond thanked the members of the committee for all of the effort and hours they have given to this effort. He also thanked Jim Fritz. He thanked the minority members because they made the majority really get into the meat of the issues and produce the best product that could come from this group. As a representative of the West End, he just wanted to thank the committee.

Jim Hagen said that the committee has consistently had good attendance and people interested. He thought the work the committee has produced was remarkable, with all points of view represented. He thought it was interesting for something that started out with such a complaint of lack of public involvement.

Bud Schindler encouraged that the interest in this subject not be "put to bed" and that the committee members continue attending the Planning Commission meetings and participate in that process.

Dennis Schultz invited everyone to his home for a celebration on May 6.

James Fritz said he was amazed at the talent exhibited on the committee. That was his main reason for videoing the meetings; it would be a shame to not have it in a permanent record.

Kathy Dickson said that everyone from the West End was very grateful for the effort everyone on the committee has expended.

Diane Johnson said that she had been amazed at the loyal public who had kept coming to the meetings right along with the committee. She had been so interested to hear their comments on the committee's process.

Brent Butler recognized some members of the committee who had helped facilitate SSB 5248 in the legislature. Jim Tracy asked if the governor had signed the bill. Amy Hiatt replied that it was not yet on her agenda.

#### Adjournment:

The meeting was adjourned at 11:15 p.m.

