

JEFFERSON COUNTY PLANNING COMMISSION

MINUTES FOR JUNE 15, 2005

- A. OPENING BUSINESS
- B. PRESENTATION/DISCUSSION ON WILDLIFE HABITAT PROTECTION & CONSERATION TOOLS & STRATEGIES
- C. DISCUSSION ON PRELIMINARY OMNIBUS BACKAGE OF UNIFIED DEVELOPMENT CODE AMENDMENTS
- D. ADJOURNMENT

## A. OPENING BUSINESS

The regular meeting was called to order at the WSU Learning Center at 6:30 p.m. by Vice Chair Jim Hagen. Planning Commission members present were Phil Flynn, Dennis Schultz, Edel Sokol, Bud Schindler, Peter Downey, Mike Whittaker, and Bill Miller. Allen Panasuk was excused.

DCD staff present were Josh Peters, Kevin Russell, and Cheryl Halvorson, secretary.

There were about fifteen members of the public present. Those who signed the guest list were Vanessa Brower, Jeff Davis, Jeremy Sage, Sarah Spaeth, Stephanie Reith, Jerry Gorsline, Pat Pearson of WSU, Ross Goodwin, Rich Brocksmith, Nancy Dorgan, and Paula Mackrow.

The minutes for June 1, 2005, were approved as amended.

The Vice Chair invited staff updates.

Josh Peters noted that the Planning Commission had received a copy of the Hearings Board final decision and order on the UGA appeal. He suggested that the commissioners discuss the issue later in the meeting.

Josh Peters reported that the Growth Management Steering Committee meeting scheduled for June 14 had been cancelled and would be rescheduled at a later date.

Josh Peters reported that staff was in production for a staff report and SEPA review for the Comp Plan amendment cycle.

Jim Hagen referred to the agenda and stated that a citizen had requested an opportunity to address the commission at the beginning of the meeting regarding the UGA issue and the South Seven housing project. The commissioners agreed to allow her to make her comments outside of the usual agenda.

Vanessa Brower, Port Hadlock, stated that she was involved with the South Seven housing project. She stated that they were issued their building permits on this date and would break ground for the first phase the following week. Ms. Brower reported that a citizen's group had formed as a result of the UGA appeal being submitted to the Hearings Board. The group was called "Citizens for the UGA". There were approximately twenty participants. They had decided to become a formal entity. She stated that the officers of the organization were Margaret Matheson, Duke Shold, herself, and Diane Johnston. Ms. Brower stated that they would be conducting activities to promote and educate citizens in the UGA, providing correct information, instead of misinformation, to the citizens and to support moving the UGA forward. She stated that not only South Seven but a significant number of projects had been completely stopped because of the June 1 Hearings Board decision. She stated that a number of plans for both affordable housing and commercial activities could not move forward under the rural designation. She wanted the commission to know that there was a core of people who supported the county in activities to get the UGA done. She stated that the citizens group would present information at Hadlock Days about the UGA. They would work with county staff to put together a fact sheet so that people were clear about where we were, what the next steps were, and what it meant. She stated that they had asked to use the display boards that had been used during the

staff open house on the UGA. They were also strongly urging the BOCC, and had received support from the County Administrator, to hold a public workshop within the UGA. She wanted the county to know that their citizen's group was more than willing to help with whatever needed to occur in order to make that happen.

Jim Hagen asked if the South Seven project was a phased development. Vanessa Brower replied that it was. Mr. Hagen asked if it could be completely built out without sewer service. Ms. Brower replied that it absolutely could not be done. She stated that they had received a conditional use permit for up to 28 units through the rural code. Therefore, the first phase was not affected by the Hearings Board decision. What the decision did do was stop their plans for Phases 2 and 3. She stated that they needed the UGA zoning in order to do those parts of the project. She clarified that they would not need the sewer for the project; they needed the zoning for the buildout density. Mr. Hagen asked how many people would be served if the project was allowed to proceed to its maximum capacity. Ms. Brower replied that they would be serving not less than 70 families.

Edel Sokol stated that she was glad to hear that they were going to utilize the informational material that had been used before for the open house. She thought the county had a huge turnout at its UGA open house compared to other public workshops. She thought it was the largest public outreach program the county had ever undertaken.

Bud Schindler asked if their citizen's group was planning to interface with the ICAN group. Vanessa Brower replied that was a future step that they had not yet taken. Their group was just forming. They planned to invite ICAN representatives to their meetings, although they were not sure who the ICAN members were, although they had identified two members.

Vanessa Brower thanked the commissioners for modifying the agenda so that she could make her comments because she needed to leave early.

**B. PRESENTATION/DISCUSSION ON WILDLIFE HABITAT PROTECTION & CONSERVATION TOOLS & STRATEGIES**

Josh Peters stated that this was the third of three critical areas workshops hosted by the Planning Commission. The first was about wetlands. The second was about channel migration zones and shoreline management. This workshop was about wildlife habitat and conservation tools. He described the order of the presenters and the topics they would address.

Jim Hagen introduced Andy Cook, Building Industry Association of Washington, who would address the legal issues around critical areas under the GMA.

Andy Cook provided a PowerPoint presentation and provided copies of the slides to the Planning Commission. His presentation addressed critical areas ordinances and best available science [BAS] under the GMA. He stated that there was a lot of controversy currently in Olympia about BAS. He stated that big buffers in developed areas may be against the law. He stated that state agencies were requiring restoration through big buffers when the law only required protection of functions and values of critical areas. He stated that the purpose of big buffers went further than the GMA mandated.

Andy Cook stated that the BAS was mostly based on natural areas. Such findings should not apply to developed areas. He stated that CTED's model

codes were not based on science for already-developed areas. While it was a noble goal to restore functions and values, it was not required by the GMA. In fact, big buffers may be against the law.

Andy Cook addressed the BAS issue. He stated that the GMA said that jurisdictions "shall include" BAS but there was no clarity about what that meant in practical terms, whether it was the only thing to consider or whether it was only one factor to consider. He stated that the issue was currently under scrutiny in Olympia and was controversial. He stated that he did not know if it would be resolved by the legislature in the near future and the current case law was conflicting.

Andy Cook reviewed some case law concerning BAS. One decision from the Central Puget Sound Hearings Board said that BAS was just one factor to be considered along with all other factors mandated by the GMA; BAS was not the sole factor. The next case, also before the Central Board, basically reversed that decision, saying that the science was the main consideration. The third case was currently before the state Supreme Court. The appellate court held that their science was not good and threw out the jurisdiction's ordinance based on the fact that they did not use the correct science. They held that the jurisdiction should adhere to the science determined by the state agencies and Growth Boards. That basically took away the local government's discretion where it concerned BAS. He stated that, hopefully, the Supreme Court would provide local governments with some guidance as a result of this case. However, because this was such a low profile case, it was not very well briefed.

Andy Cook summarized that so far the legislature was not that helpful and the courts were not helping either. That left the regulatory aspect of BAS. He stated that the legislature directed CTED to develop the BAS regulations. You had to address BAS clearly in the record of your decision-making process. The regulations said that you could depart from BAS based upon certain criteria. He described those criteria. He offered the opinion that if you were to depart from the BAS, you would get sued very quickly. He pointed out that the state regulation was a WAC and did not hold anywhere near the same authority that a statute [RCW] held.

Andy Cook addressed WAC 365-195-920(1) which addressed when BAS was inadequate. It basically said to take a precautionary approach, which basically meant to not build. He thought there were a lot of problems with that regulation.

Andy Cook then addressed the police power limitations of local jurisdictions. He thought the regulations pushed the limits of constitutional police power authority. He cited some case law where it was found that set-asides for wildlife within a proposed development must be demonstrated by the local government to be "reasonably necessary as a direct result of the proposed development". He offered the opinion that a mandatory set-aside, or large buffer, may be potentially unconstitutional. He stated that there currently were two court cases addressing the constitutional issue.

Andy Cook summarized that the legislature had provided very little guidance. Case law was conflicting. State agencies were using dubious science. State agency science was taking away local discretion. And a lot of state agencies, environmental groups, and even the governor's office were suing over the BAS issue. He stated that all of this left local governments in the lurch. He stated that he did not envy local governments. He offered a few

suggestions for local governments: (1) Ensure that the native growth protection areas, large setbacks and buffers were reasonably necessary and appropriate on a site by site basis; don't use formulas; and (2) Show your work.

Bill Miller asked whether the county should consider the whole community (all property rights) rather than just the individual's property rights. Andy Cook replied that case law only addressed individual, private property. Mr. Miller commented that the Planning Commission must consider the whole community.

Suzanne Tomassi stated that she had worked on the BAS issue for some time. Concerning wetlands, she stated that the CTED manual broke wetlands down not only by the rating of the wetland but also by proposal. She stated that her experience so far indicated that adjustments to buffers could be made depending upon the specific site, particularly if it was in an urban area.

Jim Hagen referred to the suggestion to show the work by the county. He asked if the county had to show the work to the individual property owner to justify that buffer or if it was up to the property owner to challenge a buffer. He stated that the commission had been told that the property owner had to hire a consultant and do a habitat study plan. Andy Cook stated that, while the burden was on local government, the property owner had to bring a case if they thought they had been wronged. He stated that the burden was on the local jurisdiction to show why they were imposing a specific buffer on that property and how it was affecting the environment.

Jim Hagen stated that, since Mr. Cook would have to leave, he would allow questions from the public on his presentation.

Peter Downey asked what Mr. Cook considered "big buffers". Andy Cook replied that he called them "big buffers" when government required the same size buffer in an urban setting that it would require in a rural area. The GMA did not require a jurisdiction to restore the water quality or habitat functions back to its original state. He also called them big buffers for habitat conservation areas when the jurisdiction was not stating whether the buffers were for endangered or threatened species or for all species. He stated that the legislature was not clear on that point. Mr. Downey asked at what point a buffer became "big". Mr. Cook replied that it depended on the circumstances. Mr. Downey stated that Mr. Cook's presentation did not do anything for the commission because one could say that 50 feet was a big buffer or 200 feet was a big buffer. Dennis Schultz stated that the problem was that we were using a "one size fits all" approach. We used the same buffers for the west side of the Olympics as for Eastern Washington in the arid areas. Mr. Cook stated that the buffer should depend on the circumstances of the site.

Jerry Gorsline stated that, in the first of the workshops, an approach was described that was not like what Mr. Cook described as CTED standards. Not only did it consider the adjacent land use to modify the buffer zone, it also considered the functions as well as the compatibility of the wetland, and offered other mitigating factors to modify a buffer. So what we saw was a sound approach based on BAS. It was completely at odds with what Mr. Cook was presenting. Mr. Gorsline stated that Buffer Alternative 3 was the CTED buffer program he referred to. Andy Cook responded that his presentation was about what the law was. He stated that CTED offered one interpretation of

BAS while there were other scientists who said quite the opposite. His point was that it [BAS] was open to interpretation.

Josh Peters clarified that Mr. Gorsline was talking about the Wetlands Guidelines specifically. He stated that DOE collected a series of comments on the draft guidelines and they responded to those comments. Jim Hagen stated that in the beginning of Volume 2 of the wetlands guidance, there was an acknowledgement by DOE that it was not comprehensive; it may not apply to every instance, but it was the best they had. He thought that was the crux of the argument. He stated that DOE acknowledged that there may be cases where insufficient study had been done. He stated that it made the issue confusing to him as a commissioner who needed to gather information in order to make a recommendation. When DOE said that some of their science was based on needing further study, it indicated to him that it was not complete and that it was in some ways insufficient.

Andy Cook stated that government issued permits, whether local, state or federal. He stated that one issue that was being argued was wetland mitigation banking. He understood that buffers were needed to some extent, but we could also do mitigation. A private wetland mitigation banking system in the state was being worked on. The point was that you may not be able to get a wetland back to its original functions and values in a particular site.

Phil Flynn stated that he had seen some research suggesting that you should focus on a project basis and to not use formulas.

There being no further discussion or questions for Mr. Cook, Jim Hagen thanked Mr. Cook for his presentation.

Josh Peters introduced Suzanne Tomassi, who was contracted by the county to perform the wildlife habitat mapping work. He stated that this project represented locally generated science. He stated that she would explain the process to develop the map of Eastern Jefferson County. Part of the subsequent discussion would be how to use the information to create a nexus with the critical areas regulations. He stated that the discussion would be broader because it would include non-regulatory incentives ways to protect valuable habitat.

Suzanne Tomassi stated that she would talk about the process for developing the map, stating that it had changed as they went along.

Suzanne Tomassi referred to the handout map with the circles on it. She described the broad goals she worked under. She stated that the map represented known sites of species of significance. An audience member pointed out that the map did not depict threatened and endangered fish. Ms. Tomassi stated that her work did not include salmon species because there were other regulations to address those species. Therefore, her work addressed other species of significance only, primarily non-fish related.

Josh Peters stated that the map indicated some corridors that were stream related, but it was more for terrestrial species habitat than for fish habitat. He stated that the county had the Shoreline Management Master Program and other features of our critical areas ordinances that focused on fish protection and aquatic protection. He explained that this study was focused on an area that was often forgotten, which was the terrestrial wildlife habitat. Staff discussed priority species and the priority species habitat database. Mr. Peters stated that because of our relationship with

WDFW [Washington Department of Fish and Wildlife], we could not release information about what type of species was located where (i.e. bald eagle habitat). He explained that Ms. Tomassi had come on after the project had started.

Suzanne Tomassi displayed a composite map that depicted everything they could find. She stated that even individual points, such as heritage occurrence points, were on the map. She stated that their original plan was to come up with a corridor study, a corridor being a linkage between Point A and Point B that wildlife could travel on. It became clear from some of the original maps that some of the corridors did not go anywhere. So they agreed to re-define their goal to be for core habitat areas. She explained that a core habitat was an area in which a species had everything they needed for every stage of their lifecycle. She stated that corridors were still important, but they did not have to provide everything that every species needed at every stage of its lifecycle. They only had to provide a passage from Point A to Point B. However, corridors often did provide everything a species needed, because the riparian for the most part could support smaller species. That said, they shifted the focus to the core habitat idea. She stated that they tried to pull out information that formed logical corridors.

Suzanne Tomassi stated that they used aerial photos of the county, blew them up, and interpreted every polygon in the East County. They realized quite quickly that all the habitat types were not equal, and they needed to do something to prioritize. That was where the Core Type I, Type II, and Type III came from. She stated that one of the limitations within their scope was that if an area did not make it onto the initial draft of all of the wildlife areas, they did not do a photo representation of it.

Suzanne Tomassi described the criteria for each core type.

Suzanne Tomassi stated that there were not too many corridors, only about four. They basically represented places where they found a relatively undisturbed riparian corridor to connect some of the core areas.

Suzanne Tomassi stated that once they got all of the information into the GIS system, they overlaid it with the land use map. They wanted to know the zoning that occurred in the habitat areas. She stated that they wanted to avoid the issues that Mr. Cook talked about.

Suzanne Tomassi stated that she did not want to focus on the management recommendations. She stated that a handout cited the literature she used. They based their management recommendations on proven strategies, even though they were general, and they kept the zoning and land use regulations in the back of their mind.

Peter Downey commented that the core areas were clearly not the only places where the species occurred. He asked if the map depicted areas where Ms. Tomassi wanted to preserve as almost sacred areas for those species. Suzanne Tomassi responded that the maps depicted documented occurrences, although she acknowledged that the documentation was incomplete. Mr. Downey stated that without knowing what species you were talking about, it was difficult to understand. If you were talking about bald eagles, essentially every shoreline in Eastern Jefferson County would be mapped. Ms. Tomassi responded that was the exact question she had as well. She stated that shorelines had other layers of protection. On the other hand, they also kept in mind that the management of a core area for the elk would be somewhat different.

Josh Peters explained how staff envisioned using the map. He stated that it was not a substitute for other information or regulations or protections. For example, the map would not relate to a known occurrence of a bald eagle nest. He stated that it would be used on a site specific, case by case basis. Any wetland buffer or stream buffer would already be in place. That would be in addition to the wildlife information. If there was a proposal within or close to one of those buffers, it was a separate issue, as was geologically hazardous areas and other critical areas. Mr. Peters explained that this effort was an attempt to take a step back and find areas that were left in the East county that were relatively undisturbed and that represented core habitat areas and the corridors linking those areas. It was meant as a macro perspective to ultimately preserve those key core habitat areas working through partners and through education. There may be some case by case regulatory requirements. He provided two examples. One was a subdivision in a core habitat area where the county may require cluster development unless the proponent could show how a cookie cutter division would protect the core functions. Another was when the county took over Class IV forest practice permits. If it occurred in a core habitat area, the county may require the proponent to show how they would protect the core functions when they converted to a residential use. Otherwise, it would all be a non-regulatory focus and incentive based to preserve those key areas. He stated that the county was trying to do that on a proactive basis rather than being left to do it only on a case by case basis from a project permit perspective.

Edel Sokol commented that she lived on Morgan Hill in Port Townsend and they had eagles, woodpeckers, and blacktail deer. Suzanne Tomassi stated that was a whole separate issue. She stated that they had to make a decision about excluding certain areas. She stated that the mapping was not something that would supercede any regulation.

Peter Downey stated that the key he heard was "unbroken habitat", especially for Type I habitat.

Paula Mackrow stated that it would be helpful to make it clear that the map did not include shorelines or some of the other things that were talked about. She stated that the map title gave a completely different impression than what it actually depicted. Suzanne Tomassi stated that was excellent feedback.

Paula Mackrow, North Olympic Salmon Coalition, asked if there was a minimum parcel size considered. Suzanne Tomassi replied that, with the exception of forested wetlands, they were talking about hundreds of acres because of the limitations of the aerial photos. Ms. Mackrow was concerned because there were some large blocks of DNR land on the Quimper Peninsula that were not included. Ms. Tomassi stated that was probably something that they had decided to forego, although she had been unsure about leaving it out. On the other hand, the shorelines that were present and the DNR land afforded some level of protection. Josh Peters stated that the county had no regulatory authority over the DNR lands. Ms. Mackrow stated that some DNR and Forest Service lands were included on the maps, so it was confusing. Ms. Tomassi responded that the Forest Service spoke with them and was interested.

An audience member asked how the mapping work would be utilized. Josh Peters responded that it was information the county was working with. He agreed that a better map title was an excellent suggestion. In terms of a regulatory nexus, the county had done a proposal in 2004. We had not done

another proposal yet this year. Part of the objective of the Planning Commission workshops was to begin a public participation effort on the critical areas issue and get some feedback. He stated that a proposal would eventually come forward for formal review and recommendation before the Planning Commission and a decision by the BOCC. He stated that the non-regulatory nexus was open ended and did not necessarily involve the GMA. He explained that we already had policies in our Comp Plan that supported protecting and conserving our valuable habitat. That was why he had invited some of the county's partners to talk about their roles in the conservation effort. He stated that WSU, the Land Trust, the Conservation District, and other nonprofit organizations were partners with the county. He stated that in the fish and wildlife equation, fish had become a big central focus and correctly so. However, we wanted to make sure the wildlife part of that did not get left behind. He stated that the more we could get the county's partners and others into the discussion and actually prioritizing some of those conservation efforts the better. Then we could focus the limited dollars on the projects that would make the biggest difference in terms of preserving the core areas or corridors.

Jeff Davis, WDFW, stated that, as a representative of one of those "big buffer" agencies, he wanted the commissioners to know that they currently had a non-regulatory, quasi-planning process on habitat assessment going on in Kitsap County. They would be building on Ms. Tomassi's work, which he thought was great and thanked the county for doing it. They had a process or methodology set up for their assessment. He stated that it would be internally reviewed before they released it, but it was another GIS and on-the-ground exercise that would build on the work that had already been done. It would provide a prioritizing tool for the whole county. It may pick up some of the DNR property not currently mapped. Or it may pick up some other smaller but significant wildlife areas. He thought it was something that could be done in a relatively short amount of time.

Ted Labbe, biologist for the Port Gamble S'Klallam tribe, complimented Ms. Tomassi for her work and praised the county for undertaking it. He stated that it was notable that the GMA asked counties to identify and protect important wildlife areas, in addition to and separate from the whole fish protection and shoreline protection issues. He stated that most counties in Washington, with the exception of a few, had blown off that requirement. He thought it was notable that Jefferson County had stepped up to that and spearheaded the effort. He stated that we still had to determine how we would implement it and use it.

Jim Hagen referred to the management strategies. He asked who was responsible for undertaking those strategies, citing a wetland strategy and metro wildlife corridor strategy as examples. Suzanne Tomassi replied that it was purposely vague because there was no mandate. It all had to fit within the local jurisdiction's regulations.

Peter Downey asked if there was a better breakdown of the data depicted on the map. Suzanne Tomassi replied that there was information available in the GIS system.

Concerning the issue of mitigation and restoration, Josh Peters stated that mandatory restoration was not meant to be involved with any particular project. This was meant to be "big picture" county policy that the county elected to take on in order to help protect these kinds of areas. However, there were some projects that, because of their impacts, required mitigation.

This was information that we could use at some point for an overall program. Right now we were not at a level of sophistication to be able to say where such mitigation/restoration opportunities were in the county. We may be able to get there, but we were not quite there yet, although this was a first step. Mr. Downey stated that he was consulting for WDFW and DOE on policies for doing mitigation and restoration. He stated that we could identify the places that needed mitigation/restoration, but there was never any money to do it. The question was how to get the development out there to do a better job of doing mitigation.

Paula Mackrow stated that you could identify the areas, but in order to accomplish anything you had to have a willing landowner. This project only spoke to the physical potential. She stated that the missing part was how to accomplish the mitigation/restoration. Peter Downey stated that you could have a policy that said we could go there and spend restoration dollars and encourage the landowner to do that. From a developers point of view, the question was how to get the developers to start thinking more broadly about the larger scale and how the whole thing (ecosystem) works. He stated that we were trying to get to those situations that actually had some opportunity for success.

Jim Hagen referred to the strategies for agricultural lands. He asked about invasive species. He asked if it was meant to dictate to farmers what kinds of crops they could grow. Suzanne Tomassi responded that "dictate" was too strong a word to use. She stated that she deferred to WDFW in the management strategies because of their involvement with endangered species. Mr. Hagen asked for an example of an invasive species. Jerry Gorsline stated that reed canary grass was an example of an invasive species group. Ms. Tomassi stated that it would not be something you would raise as a crop. It would be something that could cause a lot of damage to the wildlife habitat. Josh Peters stated that the proposal from 2004 did not include anything on what types of crops should be restricted. However, in the voluntary best management practices planning process that was occurring, the farmers could address the issue of crops that may not be appropriate close to streams or wetlands.

Jeff Davis stated that one of the things you had to be very careful about was gaining buyoff from the landowner on the kinds of crops to grow, because some crops could attract wildlife, which in turn could have the farmer asking for compensation for crop damage. He explained that it only applied to larger, commercial crop growers. Dennis Schultz stated that there were very few crop growers in this county. Mr. Davis stated that one of the things that made him excited about the work the county had done was that fish was way ahead and that wildlife was lagging behind in importance. He reported that the U.S. Fish and Wildlife Service had done a survey of all of the states on what fishing contributed to the economy of the states, as well as hunting and watchable wildlife. He stated that Washington ranked eighth in the country for the three categories. One point eight (1.8) billion dollars per year was contributed to the state economy, and watchable wildlife generated the most at 357 million dollars per year. In an area like East Jefferson County that was looking for economic development, watchable wildlife programs may be an option. Edel Sokol commented that the county had a huge park in the county taking about 90% of the land area.

Josh Peters stated that we had a Natural Resources division in the county. He introduced Tami Pokorny from that division who would address conservation tools and strategies. Mr. Peters stated that with limited dollars available,

we had to pick and choose what projects and programs we could pursue. He stated that the county relied on its partners who did conservation work. He stated that the county had goals and policies in the Comp Plan about conservation planning, but it would be impossible to implement fully all of them on our own. He stated that typically Long Range Planning was involved in the regulatory aspect of any issue, bringing forward proposals to the Planning Commission, and being focused on those types of activities. However, being involved with the Natural Resources division had resulted in the LRP staff getting more involved in considering the "big picture".

Tami Pokorny stated that the Natural Resources division had been involved in watershed planning and management. Other responsibilities were land conservation, habitat restoration, etc.

Tami Pokorny addressed the Conservation Futures Program as a means of conserving land. She described the make-up of the Conservation Futures group, including a citizen committee and two staff members. She described the funding source for Conservation Futures.

Tami Pokorny described some of the purchases made with Conservation Futures funds. She described the criteria for making such purchases.

Tami Pokorny described the Dosewallips River acquisition project. She stated that Jefferson Land Trust had identified five willing sellers. She related the funding sources that had been used to make the purchases. The ultimate goal would be to transfer the ownership to the Dosewallips State Park.

Mike Whittaker asked for clarification about a conservation easement, what rights the landowner gave up and what rights the landowner gained. Josh Peters responded that the question was a good nexus to the next presenters. He introduced Stephanie Reith and Sarah Spaeth of the Jefferson Land Trust. He stated that one of the things Land Trusts did was to secure conservation easements on private property.

Stephanie Reith provided a description of how Land Trusts were started and their purpose. She stated that they now tended to work very strategically. They had partnered with other groups and entities, both private nonprofits and government. She stated that they worked with willing landowners. She stated that the land remained on the tax rolls.

Dennis Schultz stated that quite often a conservation easement would result in the property actually paying higher taxes because it would come off of the previous tax program (i.e. timber tax or ag lands).

Stephanie Reith stated that they did not own or manage a lot of land in the county. She stated that some Land Trusts owned a lot of land and made it available for public access. She stated that the Jefferson Land Trust was not there yet. She explained how the Land Trust worked with people on development of their land to maximize the conservation values of the land while still allowing the landowner to develop their land. She cited a project for affordable housing they were currently working on as an example.

Sarah Spaeth stated that conservation easements were worked out with each individual landowner who could put their own requirements on the easement. So it was very specific to that property and that landowner. Then it was the Land Trust's job to see that those conservation values were carried out in perpetuity.

Sarah Spaeth referred to a map showing the conservation easements in East Jefferson County. She stated that most of their early easements were donated by the landowners. In the mid-1990's, they became proactive. They recognized that there was higher priority land that should be conserved. Their first proactive project was the Quimper Wildlife Corridor. They were instrumental in gathering a lot of salmon groups together to form a group called the Chumsortium. They had worked very closely and successfully on Chimacum Creek. They also had efforts going in the Salmon and Snow Creek areas. They were also working with the county on the Dosewallips River. She stated that they were also working on conservation of the Sunfield Farm.

Sarah Spaeth stated that their efforts were all over the map but they also remained a resource for landowners who wanted to protect and conserve their land. They would go through their criteria and decide whether a conservation easement or outright acquisition was the right method to use. Stephanie Reith stated that there were specific IRS regulations that required them to have criteria to follow to determine whether the Land Trust could grant or purchase a conservation easement. Just because a landowner came to them, it did not necessarily mean they would do an easement.

Bud Schindler asked what a conservation easement did for the property value. Sarah Spaeth responded that it really varied. It was dependent upon how our Assessor viewed it. She stated that the landowner often had a private appraiser come in and do an appraisal. Dennis Schultz stated that you may make a property more desirable by having a conservation easement, but it varied from property to property. Mr. Schindler stated that anytime you encumbered a property with an easement, it had to fundamentally limit its use (and that was certainly the objective), and the property value would naturally be affected. He wondered how significant the effect was. Ms. Spaeth stated that it really depended on what was in the conservation easement. The commissioners and some audience members discussed examples of the effects of conservation easements on property values. It was noted that some properties in some areas that had conservation easements actually went up in value.

Tami Pokorny asked if there was a size limit to the property on which you could get a conservation easement. Sarah Spaeth replied that they currently did not have a specific size limit. Instead, they considered the conservation values and/or the wildlife values. She stated that there was a whole set of criteria they considered. Stephanie Reith stated that was the case currently. There was legislation pending that could change that.

Josh Peters stated that staff had invited a representative from the Conservation District but they were not able to attend. He briefly described what conservation districts did. Dennis Schultz stated that the Conservation District had several areas of interest. One side was farm animal management. Another was stream buffers and the CREP program. They did a lot of the stream studies for temperature and fecal coliforms. They were very involved with the salmon effort.

Pat Pearson, WSU Extension, stated that they had done some public education outreach about all the conservation tools available so that people learned about conservation easements, CREP, etc. They also provided similar information at the Discovery Bay Day event, along with the other nonprofits in the county that were doing similar work.

Stephanie Reith stated that she had come here from Chicago where she had worked with a similar organization. From her experience, she could see where the gaps were and were not. She stated that she had been impressed to see the collaboration going on between the various groups in this area.

Josh Peters stated that this was the third and final workshop on the critical areas issues. He thanked the Planning Commission for being willing to host the workshops, and the people who made presentations, and the public who participated. He stated that the workshops were for informational purposes. He stated that, in the near future, staff would be bringing forward a proposal that the Planning Commission would review and passing a recommendation on to the BOCC. He invited the public to be involved in that process.

**C. DISCUSSION ON PRELIMINARY OMNIBUS PACKAGE OF UNIFIED DEVELOPMENT CODE AMENDMENTS**

Kevin Russell stated that the Planning Commission had received a preliminary draft of the UDC amendments on June 1. He stated that it was a preliminary draft through the efforts of the staff and the UDC Committee. The purpose now was for the Planning Commission to review the preliminary draft and create a public review draft.

Bud Schindler stated that the Planning Commission should realize that this was Phase 1 of a two-phase project. This draft was for the Omnibus. The next phase would be a side-by-side comparison of the UDC and Comp Plan. The objective of that phase would be to assure that the Comp Plan would contain the goals and policies and the UDC would contain the development regulations.

Dennis Schultz provided an overview of the joint work of staff and the UDC Committee. Some things were small and other things were issues that had not been addressed before, such as espresso stands.

The commissioners discussed how to proceed with its review. Kevin Russell stated that the cover memo highlighted the major changes, the areas of focus. Josh Peters provided a range of options the commissioners could follow. He explained that staff was working on a SEPA review and staff report based upon the preliminary draft. He stated that the SEPA review could be adjusted based upon any revisions the Planning Commission made.

Edel Sokol moved that the Planning Commission make this document (the preliminary draft) the public review document and go out to public hearing on it. She stated that the science issue was especially important to the public and wanted to get that topic before the public at the earliest possible time. There was no second to the motion.

Bud Schindler advocated that the Planning Commission hold at least one meeting on the preliminary draft and discuss the major points that could be of concern. He thought the full Planning Commission should agree that the draft document was ready to go to a full public review. Some commissioners agreed with his suggestion. Dennis Schultz stated that there were many changes that would not merit much discussion because they were to comply with RCWs. Josh Peters clarified that the draft had always been public, so it was not a difference between public and a sort of internal document. He stated that the difference was between a preliminary, informal public process and a formal public process.

The commissioners agreed to have the UDC Omnibus on the agenda for the next meeting.

Jim Hagen stated that the Planning Commission was anxious to start work on the site specific Comp Plan amendments. Josh Peters stated that the county had contracted with a consultant to help. He stated that staff would probably not have something on the Comp Plan amendments available for the next meeting, and maybe not until the first meeting in August.

Josh Peters suggested that the commissioners e-mail staff with UDC issues that should be discussed at the next meeting. They could be put on the agenda so the commissioners could review those sections in particular. Dennis Schultz suggested that there may be some issues that were not addressed at all yet and suggested the commissioners e-mail staff with any such issues they might think of.

Bud Schindler complimented Kevin Russell on the job he had done on the Omnibus.

#### **D. ADJOURNMENT**

Josh Peters referred to the UGA Hearings Board decision. He stated that the BOCC decided to continue the capital facilities planning that was already going on. Also, the petitioner had filed a Motion for Reconsideration asking the Hearings Board a series of questions about the decision, clarifying aspects or even aspects that would go beyond what was contained in the decision. The BOCC had decided to participate in that process by responding to that Motion for Reconsideration. He stated that, obviously, things had changed on the ground as a result of the decision in terms of what was in effect at the moment. He stated that some development that was not going to occur until sewer was in the ground was not affected in terms of when that development would occur. Some other folks' plans had been affected.

Jim Hagen asked about the timetable for the reconsideration. Josh Peters thought it was relatively short, certainly not months.

Edel Sokol stated that Commissioner Sullivan's quote in the Leader was that, basically, the whole plan was thrown out and we would have to start from square one. She asked if that was so. Josh Peters responded that, from the Long Range Planning perspective, we would not be starting from square one because we had done a full planning process and gotten to a certain point. He thought that when we picked up, we would pick up from where we left off. Ms. Sokol and Mr. Peters discussed the practical effects of the decision. Mr. Peters thought the Motion for Reconsideration would clarify what was invalidated and would provide more detail about what was still in place.

Edel Sokol stated, as an observation of this meeting, that we had representatives from government agencies and nonprofits, all representing their interests. She stated that there was only one person present representing disadvantaged people and they were not being heard by government. It was very disconcerting. They had basically been done out of their UGA.

Peter Downey stated that his question was where we went from here in relation to the UGA planning. Josh Peters replied that his answer was to continue to pursue the capital facilities planning and to try to come up with funding sources. He stated that staff was not perceiving it as some sort of stop and

having to start over from the beginning. He explained that the capital facilities planning was being done by the Public Works department.

In answer to Phil Flynn's question, Josh Peters stated that contracting for the capital facilities planning was in its final stages.

Bud Schindler asked about the role of the Planning Commission in terms of the UGA. Josh Peters replied that the commission could communicate with the BOCC, as it had done before. In terms of going back to plans and development regulations, there may come a time when staff would come back to the Planning Commission to modify what was adopted and invalidated. He stated that the timeline may be this year, although the county may ask for an extension. In terms of funding (for sewer), an LID was one option. It would be a method to see whether the people in the sewer area would be willing to fund a certain share of the costs.

Phil Flynn asked if the Planning Commission would be kept in the loop on the county's response to the Hearings Board. Josh Peters replied that staff would keep the commission informed.

Jim Hagen referred to Ms. Sokol's comments. He stated that when the Planning Commission held a public hearing in March on the suggested amendments (MLA05-66 and MLA05-67), there were more people who showed up in support of the UGA than all of the meetings throughout the whole 2004 cycle. He clarified that he was not talking about BOCC meetings/hearings, only Planning Commission meetings. He thought it was important to note the voice of the people who chose to show up and express their will to the Planning Commission.

Bud Schindler stated that he could not help, considering his past profession, but ask about checking the process. He wondered what we did, and whether we were learning a lesson, and how many more times we would go through this process before we succeeded in producing a product that would pass muster. He wondered whether there was anything we could have done during the last process to see if the product would have made it before we submitted it. He wondered how we could have predicted this outcome, and stated that he did not know. Edel Sokol stated that we went through a whole process, with staff advising the Planning Commission. She wondered what we could have done better.

The commissioners discussed the process that had occurred during the UGA planning, particularly regarding the sewer planning. Phil Flynn's opinion was that we were not getting the expertise we needed, especially regarding the sewer issue. He did not think the county was well served by the consultants we had, which he acknowledged was not their fault. They had done the best they could. He thought we needed a higher level of expertise. He pointed out that we had the greatest amount of public participation on the UGA issue that this county had ever experienced. Peter Downey stated that, while it was good to do a retrospective to see where we went wrong, we needed to move forward and get it right. Mr. Flynn stated that the engineering firm was so important and also the RFP that would guide their work. Josh Peters stated that he could probably get a copy of the engineering RFP from Public Works in order to keep the Planning Commission in the loop.

Mike Whittaker asked if staff would speculate on how much time had been lost as a result of the Hearings Board decision. He noted that a lot of people's projects were depending on the UGA moving forward. Josh Peters responded that momentum, in his opinion, had not been lost as far as the capital

facilities planning was concerned. In fact, there may even be an acceleration of effort because there was an increased dependency on getting more advanced capital facilities planning done, including definitive plans on groundbreaking for a sewer system. From that perspective, time had not been lost at all. From the perspective of people who were relying on zoning without urban services, he thought plans had changed for now. At least from a Long Range Planning staff perspective, the future land use map was the future land use map. That had not changed. That was what he meant by saying we were not starting at ground zero; we were starting from the perspective that was where we were going. We might have to take a different path to get there. He could see where a property owner would be upset about it. Mr. Whittaker asked if it was a money issue. Mr. Peters agreed that how we would pay for sewer was an issue.

The meeting was adjourned at 9:45 p.m.

**E. APPROVAL OF MINUTES**

These minutes were approved this \_\_\_\_\_ day of July, 2005.

\_\_\_\_\_  
Jim Hagen, Vice Chair

\_\_\_\_\_  
Cheryl Halvorson, Secretary