



## **JEFFERSON COUNTY**

### **PLANNING COMMISSION**

621 Sheridan Street  
Port Townsend, WA 98368  
*(360) 379-4450*

#### **JEFFERSON COUNTY PLANNING COMMISSION**

#### **MINUTES FOR JUNE 13, 2007**

- A. OPENING BUSINESS**
- B. CHANNEL MIGRATION ZONES**
- C. FISH & WILDLIFE HABITAT CONSERVATION AREAS**
- D. ADJOURNMENT**

## **A. OPENING BUSINESS**

The regular meeting was called to order at the WSU Learning Center at 6:30 pm by Chair Peter Downey.

Planning Commission members present were Bill Miller, Patricia Farmer, Peter Downey, Bud Schindler, Henry Werch, Mike Whittaker, JD Gallant and Edel Sokol. Ashley Bullitt was excused.

DCD staff present were Joel Peterson, Brent Butler, and Angela Wade (secretary).

There were about 25 members of the public present. Those who signed the guest list were: Scott Clogston, Frank Hoffman, Dennis Schultz, John Richmond, Diane Johnson, Jim Tracy, Roger Short, Steve Short, Kathy Dickson, Norm MacLeod, Jim Hagen, Renee Bush, and Kenn Brooks

### **Staff Updates:**

Peter Downey asked staff if there were updates regarding the June 20<sup>th</sup> tour of wetlands. Brent Butler responded that Donna Frosthalm is contacting the owners of the proposed sites for permission to visit.

Brent Butler reported that DCD had received a grant for \$305,000 to complete the Shoreline Master Program. The LRP staff had submitted a grant proposal to the WA DOE requesting an extension of the SMP Comprehensive Update through the 2007-2009 biennium. The current 2005-2007 contract between the County and DOE ends on June 30<sup>th</sup>, 2007. The project team will adopt a revised project scope and schedule to include continued staff and consulting, additional public outreach, and a formal review process before the Planning Commission and BOCC. The final Shoreline Inventory and Characterization Report draft has been distributed to the STAC and posted on the website. Hard copies are available for review at the DCD front desk and County Library. The initial review draft of the SMP is currently undergoing internal staff review, and the draft Restoration Plan will begin internal staff review at the end of June. The initial Cumulative Impact Analysis will be developed in template form at the end of June. Peter Downey said that he would like an update directly from Michelle McConnell as to the proposed allocation of the grant money. Patricia Farmer asked what the shoreline inventory includes. Mr. Butler responded that the Shoreline Characterization Report breaks up the shoreline into discreet units, often using "drift cells" which emulate the drift of the current. The initial Cumulative Impact Analysis will look at full build out, the maximum potential development of the shoreline and the resultant impact. Edel Sokol asked what the public input will be, or if there has been public input. Mr. Butler responded that it has been continuous, and that the draft SMP will be taken out to communities again so that the public has a chance for input before the draft goes back to the Commission in the winter.

Brent Butler reported on the June 11<sup>th</sup> BOCC interviews for the No Shooting Area core review committee. Interviews were held for three positions as members at large, who represent the entire county. The district appointees are as follows: for District 1- John Ebner, District 2- Henry Werch, District 3- Raymond Hunter. The review committee consists of one member from each district, the Director of DCD (or his designee who is currently Karen Barrows), and the Sheriff (or his designee.) Currently, there is only one approved representative stakeholder for Paradise Bay- Ken Merritt from Port Hadlock.

Brent Butler reported on the Comprehensive Plan Amendment cycle. There will be a public hearing on June 18<sup>th</sup> at 10:15 am – 11:00 am regarding the Planning Commission and staff's recommendations on the preliminary docket, with the intent to decide on a final docket.

Brent Butler reported that the Housing Action Plan Network will meet Thursday June 14<sup>th</sup> at 3:00 pm at the Pope Marine Park Building.

Joel Peterson reviewed the handouts for the meeting, including a CD with CMZ information and the following reports: A Framework for Delineating CMZs by the DOE, and Susan Perkin's Geosciences report done with NOAA and Jefferson County. The CD also contains some Power Point presentations from the Bureau of Reclamation on CMZs that include the maps on display. Also on display is the most current version of the Land Use Map updated with 2005 and 2006 Comprehensive Plan Amendments.

Joel Peterson asked for clarity on requests from the Planning Commission to the staff. He would like the Commission to use motions on staff action items so that he can track specific requests through the minutes of the meetings. Brent Butler added that at this meeting, staff provided maps and CDs that had been requested at the last meeting. He agreed that motions would be helpful in clarifying the expectations of staff.

Bud Schindler asked if staff was requesting that the Commission point out areas of financial and legal concern that need advice from the County. Brent Butler responded in the negative, saying he's asking for specific tasks to be clarified, for example, if the Commission wanted copies of relevant legal cases for the next meeting.

Joel Peterson introduced Eric Toews, Code Writer, and said that Mr. Toews couldn't stay for the entire meeting but is available now to answer questions.

Eric Toews introduced himself by saying that he has had experience with planning since 1990. He was a planner with Jefferson County 1990-1994 and with the city of Port Townsend 1995-1997 and has familiarity with the history of critical areas in Jefferson County. He founded Cascadia Community Planning Services and is currently the Principal. He also works on-call as a Senior Planner for the Environmental Office of Parametrix.

Eric Toews explained that his understanding of the code writer's role is to collaborate with staff to translate the Commission's recommendations into bill format draft. He said

his role is not as a policy advisor or meeting facilitator, but his role is to fulfill a technical drafting function that is objective, and to prepare a draft of the CAO that reflects the Commission's direction, not his assumptions. Mr. Toews also referred to the limited available budget. It was decided that he focus his energy on drafting, with periodic meetings with staff, and access to the reports and PC meeting minutes. Any remaining money in the \$10,000 budget is to be used to present the draft to the BOCC.

Eric Toews reported on his efforts so far. He has been reviewing the PC recommendations, binders (CAO, Settlement Agreement, etc), minutes, and reports, as well as holding regular meetings with staff to be sure he understands the PC recommendations, and to discuss the schedule. Mr. Toews expects to begin drafting in the next one to two weeks. His intent is to begin the work incrementally, but to wait to bring the complete draft forward to the Commission in July. He invited questions from the Commission.

Bud Schindler said that some of the reports from the Committee advised legal caution. He asked if Eric Toews would provide any legal insight. Mr. Toews said that he is licensed to practice law in WA state, but his role as the code writer is expressly NOT to provide legal advice. He said that he will provide language for the Commission's concerns and flag it for follow-up by the prosecuting attorney's office. Brent Butler said that the staff's opinion of the recommendations is dependent on legal and financial risks. Mr. Schindler requested that the staff give feedback on the apparent risks. Mr. Butler agreed to give advice regarding the risks that are apparent in the code drafted by the code writer.

Henry Werch asked Eric Toews for clarification on the phrase "line in, line out." Mr. Werch said there is concern that line in; line out revisions would cause them to revisit the May 17<sup>th</sup> draft of the CAO. Mr. Werch said the Commission's expectation is that line in, line out changes only be made to the new draft. Eric Toews responded that he would make changes to the adopted CAO, not the May 17<sup>th</sup> draft. He said in some instances it may not make sense to do line in, line out revisions. If the changes are significant enough, it may be better to write new draft. On the other hand, if the changes are significant, but don't change the framework of the code, he can delete and insert certain sections of the code. Mr. Toews said this may require some reordering and reformatting of the structure of the code. For example, currently all the definitions are in one chapter, there is a critical areas overlay with a zoning overlay in another section, and substantive classification designation regulation provisions are in another section. He said this is one area where he could use some direction from the Commission.

Henry Werch said that there is concern that the process of relaying recommendations to Eric Toews through the staff and minutes may cause more controversy and extra work. He said he had hoped that Mr. Toews would be attending the meetings, not to participate, but to hear the recommendations directly from the Commission. Mr. Werch also said that he prefers to receive the draft piecemeal rather than all at once so that he has more time to review it. Mr. Werch said that the Committee recommendations suggest new language for virtually every section of the ordinance, and requires more than line in, line

out changes. Eric Toews responded that he doesn't mean to minimize the amount of work that the Committee has done. He said that it may be that whole sections of the code are repealed and replaced. Line in, line out revisions are meant to benefit the public, the BOCC and the Commission, allowing them to see exactly where the new language goes and what it replaces.

Mike Whittaker asked if it is safe to assume that Eric Toews will avoid language that is not legally high risk. Mr. Toews responded that a legal challenge is always a concern, but he will do his best to accurately reflect their recommendations in code language as measured and defensible as possible.

Brent Butler announced that he passed two examinations last month. One was offered by the American Association of State Floodplain Managers, and the other by the American Institute of Certified Planners on planning history. Peter Downey congratulated Mr. Butler and said that his expertise is valued by the Commission.

Henry Werch commented on the field trip scheduled for next Wednesday morning. He said that it overlaps with the Land Trust breakfast that ends at 9:00 am. Mr. Werch requested that the field trip be structured so that the first stop is to a site that has been previously visited. Brent Butler said that he can be reached by cell phone during the field trip so that those arriving late can catch up with the group. Mr. Butler also said he'd make Mr. Werch's request known to the organizer of the trip and would send out an email listing the sites to be visited.

Brent Butler reported that there is a meeting next week on the Master Planned Resort. They hope to have something together by the end of July.

**Committee Reports:** None

**Public Comments:**

Norm MacLeod referred to the maps on display. He said that the areas mapped as future cooperative preservations line up with the wildlife corridors. He questioned that many of the wildlife corridors run through build able lots, and not through the commercial forest areas, where wildlife already exists. He also said that the wildlife corridors match up with the CMZs. He wonders that since CMZs are not mandated under GMA to be managed by CAO, and are already heavily regulated, why we would want additional management of CMZs. Mr. MacLeod said that rulings that occur in eastern Jefferson County also affect the West End, but the maps are usually only of the eastern section. Mr. MacLeod spoke about the Settlement Agreement. He asked if Jefferson County is the only party that will be required to follow it. He doesn't think that it should be required for the County if it's optional for WEC.

Dennis Schultz referred to pages 5-6 of his handout that summarizes the differences between the majority and minority reports. He said that the biggest difference is that the minority report recommends protecting the entire State list of Priority Species, including commercial

and game species. He said that if these recommendations are adopted, the whole county will become a wildlife habitat because of deer and other common species. The majority report states that Federal and State regulations already protect endangered and protected species and suggests a Local Importance procedure to create regulations to designate and protect other species. If the ordinance is written to include the species of Local Importance, the Planning Department would be aware of this classification when a specific parcel is considered for a permit. The other main difference in the reports is in regard to buffers.

Jim Hagen said that there was a series of workshops in 2005 conducted by the Planning Commission and the public in response to WEC's petition. At the same time, settlement negotiations were occurring behind closed doors and the public was unaware that these were going on. He said that the public felt dismissed. The CAO Committee was created to remedy the closed door process of developing policy, and the Committee has been dismissed by the Planning Commission. Mr. Hagen said that last week he asked that something be passed out to the BOCC and was told it couldn't be done because he had been dismissed. He said that now the staff is a filter between the Planning Commission and the code writer. In light of past history, he asked that the Planning Commission not be so formal in dismissing the public. He said that the reports have been jumbled and that the majority and minority opinions have been lumped together, when they have nothing in common. He said in many cases the reports are not as objectionable as the May 17<sup>th</sup> draft, but are more restrictive.

Byron Rot said that he has experience in delineating CMZs and it's not rocket science. CMZs are based on a channel's past and future predicted locations. CMZs contain the best habitat for fish and are a hot spot for fish and wildlife. He said the tribe is keen on protecting these areas because they want to bring the fish back to harvestable levels. Mr. Rot urged that CMZs be fully protected. In regards to buffers, he said that if CMZs incorporate the past and future location of channels, then the entire area of the CMZ is the buffer. He said that stream buffers of 30 feet to 60 feet are not adequate because the few trees in such a buffer are susceptible to wind, and may not provide stream coolness needed for fish. Because buffers are susceptible to wind and have high soil moisture, it is easy to lose trees in a small buffer. Mr. Rot recommended buffers of at least 100 feet and 150 feet for larger streams.

Diane Johnson spoke about the majority recommendations. She pointed out that most of the areas on the map designated as habitat areas are already developed as farms or small towns. In most cases they're as developed as they can be for the density allowed. She also said that virtually all agricultural land in the county is in wetlands. The majority report focused on the streams going through these already developed areas, and recommended riparian buffers for wildlife. Ms. Johnson said that the wildlife is already there and the riparian buffers are adequate. She said that the stringent protection for light and noise proposed by the minority is not necessary. Endangered and protected species are already protected by Federal law, and the majority report includes protection for additional species that need to be protected.

Kathy Dickson spoke in regards to agriculture and the tainted food problem in the US. She referred to an article in the June 8<sup>th</sup>, 2007 edition of Agri News, in which the FDA

announced that a US company was adding melamine to feed for sheep and goats. The article continued that it had been recently stressed by federal officials that melamine is not approved in the US as an additive for human or animal food. Ms. Dickson said this provides yet another reason to ensure that local agriculture continues in the CMZs, wetlands, and wildlife areas. She also said that the entire valley is a wildlife corridor.

Jim Tracy said that it is his understanding that the statutory requirement for completion of the SMP is 2011. He said that the CAO should be completed before the SMP so that the work of the CAO can be incorporated in the SMP and not repeated. Mr. Tracy said that to the best of his knowledge, no document requires that CMZs be designated as critical areas. He asked, if this is true, what basis the Planning Commission is going to use to adopt CMZs in the CAO. The rationale of the Commission must be stated or it will be thrown out. He also asked about the impacts on individual property owners. Mr. Tracy said he heard discrepancy on the direction to staff whether or not to consider finances in developing the CAO. He referred to Mr. Toews' comment that he is not a policy maker and that he wanted direction from the Commission regarding revisions and structure of CAO. These policy questions need to be answered by the Commission, not by Mr. Toews. Mr. Tracy also emphasized Mr. Toews' comment that the Commission needs independent legal advice during the formation phase of the ordinance.

Roger Short asked about the time and date of the upcoming field trip and if the public is invited. He also said that grant money is not free money; it comes from taxpayers. Mr. Short wondered if there had been any staff changes that hadn't been reported tonight. He asked whether the CDs passed out to the Planning Commission are public and available. Mr. Short said that Edel Sokol asked staff to provide a map of the entire County on several occasions. He thought the staff was trying to satisfy requirements without the intention of creating a CAO in the best interest of the community. In response to the comment that the public process is time consuming and costly, he said that it is also costly to the public. Mr. Short has made requests for better wetland maps many times as they are extremely inaccurate and have affected farmers who are told that the entire area is a wetland.

Dr. Kenn Brooks addressed the issue of advocacy groups reporting with an underlying agenda. His own land was designated as a Class IV Wildlife Corridor. Josh Peters said that Class IV Wildlife Corridors are highly degraded areas that need attention, but upon seeing the work that Dr. Brooks had put into the land, he recognized that it is not a highly degraded area. When Dr. Brooks asked other people why the area was designated so, he was given reasons with underlying agendas, such as prevention of additional future development and keeping track of the area. No one said anything about the area being critical to a certain species of wildlife, or a corridor for wildlife. Dr. Brooks said that advocates are everywhere. The minority report was written by an advocacy group and there are even a few advocates in the majority group. He said policy is not a matter for scientists, but for elected representatives and it is the Commission's duty to provide advice to the elected representatives. He said that Americans expect groups like the Commission to make rational decisions based on good science, considering advocacy positions, but making moderate decisions. Dr. Brooks has faith in the citizens of Jefferson County to be good stewards of their land and said that the Commission needs to listen to the rural citizens.

Scott Clogston said that he called DCD yesterday and was told his question could be addressed at the Planning Commission meeting. He submitted a map with notes describing his complaint in regards to a property with inappropriate fencing near Little Goose Creek. His opinion is that if the fence were removed, the wildlife would return to the area as it was before the installation of the fence.

## **B. CHANNEL MIGRATION ZONES**

JD Gallant moved that CMZs be included in the CAO under Geological Hazardous Areas as written in MLA06-242 draft, Article VI-G, 2(C) iii (d). Patricia Farmer seconded the motion.

Peter Downey said he's concerned that the CMZs could be too wide, and suggested that there be a limit on the buffer size, so that the high hazard CMZs include only the areas indicated as red on the high hazard maps, not yellow, or green.

Peter Downey offered a friendly amendment that the motion be amended to include language "that high hazard CMZs be included in the critical areas with no additional buffers." The friendly amendment was accepted.

Henry Werch said that in the past nine months the Commission has heard stories from landowners regarding their frustrations with county critical areas processes and enforcement. He also heard from a real estate representative that in the forty to fifty applications that she has submitted to DCD, she has had little to no problems. This suggested to him that the problem with county enforcement of regulation has more to do with how DCD deals with hardships, rather than how the ordinance is written. Mr. Werch suggested that it would serve the public to introduce clear direction in the CAO to DCD and BOCC regarding a more transparent and consistent process for dealing with petitioners looking for permits. Mr. Werch said that enforcement and DCD-public interaction are more of an issue than how the code is written.

Peter Downey agreed that Henry Werch made a valid point. He said that addressing this issue is beyond what the Planning Commission can do on a day by day basis, but at least they can provide some clear direction.

Bill Miller said, in regards to the motion on the floor, that he didn't necessarily favor it, but wanted the BOCC to be able to say that they have addressed the intent of Section 1 of the 2<sup>nd</sup> Settlement Agreement.

Peter Downey said that it would be educational for the Commission to see an overlay of CMZs in the flood hazard zone. He suspects that often they will cover the same area.

JD Gallant read from section (d) "Channel Migration Zones (CMZs). Areas subject to the natural movement of stream channel meanders. In the delineated high risk CMZ area, channel migration is likely within the next 100 years; in the moderate risk CMZ area,

channel migration is possible in the next 100 years. Areas protected from channel movement due to the existence of permanent levees or infrastructure improvements such as roads and bridges constructed and maintained by public agencies are excluded from the high or moderate risk designation. These areas also do not include areas outside the meander hazard which may be subject to rapid movement of the entire stream channel or avulsion.”

For clarification, the last sentence is in reference to the break up of banks and high hazard is defined as channel migration likely in the next 100 years.

Henry Werch said he’s in favor of including CMZs and the justification for doing so comes from CTED recommendations, and recent counties’ inclusions of CMZs with no apparent issues. Bud Schindler said that most of those counties were urban and he doesn’t agree to add CMZs as they’re already covered by forest practices and shoreline management, as pointed out in Report #10. JD Gallant said that nothing in the GMA prohibits inclusion of CMZs in the ordinance. Mr. Gallant said that the primary reason for inclusion of CMZs is the delay of the SMP. He said that in the future there may be overlap with the SMP, and the code can be changed later if needed. Edel Sokol said that whatever is written for the ordinance should be in sync with the SMP. Ms. Sokol said that as the SMP has yet to be written, and no public comment given on the SMP, she questioned how the Commission could write something now. She did not favor writing it twice.

Henry Werch referred to a submission from Jill Silver, based on Whatcom County, which provided substantial protection for individual property owners, but dealt with the issue as a whole. He said that the committee as a whole agreed that the ordinance should be user friendly to the public. Peter Downey added that agriculture is exempt, and the inclusion of CMZs would not affect agricultural land. Patricia Farmer referred to Report #11, page 3, that eleven counties do include CMZs and eight counties do not. Mike Whittaker said in response to Ms. Farmer’s comment, that he could not find CMZs in the codes of some of the counties listed in Report #11 as having included CMZs. Mr. Whittaker also said that there is no policy convincing him to include CMZs in the ordinance.

There was discussion between Edel Sokol and Peter Downey about Best Available Science. Ms. Sokol said that the recommendations by Jill Silver are not scientifically based. Peter Downey disagreed, and said that there is science supporting the recommendations. Discussion continued as to whether or not WAC requires that the science be specific to Jefferson County.

Bill Miller moved that the Planning Commission recommends that the Critical Areas Ordinance contain a new section addressing Channel Migration Zones (CMZ) that will:

- A) Include a definition of the concept of CMZ and address exceptions for lawfully developed uses established prior to the enactment of this ordinance.
- B) Clarify that the regulations addressing CMZ are to preserve the integrity of an identified CMZ and its associated buffer in order to protect fish and wildlife habitat as well as corresponding riparian habitat functions while also indicating that concerns for issues of “health and safety” are the responsibility of and are addressed in the Geological Hazardous Areas (Article VI-G, Title 18.15.270) section of the Jefferson County Code.

- C) Base identification and delineation of a CMZ as determined from the Department of Ecology (DOE) criteria noted in the DOE Delineation Manual.
- D) Allow for site-specific review and analysis to determine the extent of a development proposed to be within a CMZ and its associated buffer could be allowed. The analysis shall include site topography as a factor and may also require evaluation of the design of a “Habitat Management Plan” that would be implemented to ensure protection of riparian habitat functions.
- E) Note the distinction between buffers required for protecting Habitat and those required for protecting hazards to “health and safety.”
- F) Note – there is a “jurisdictional boundary” of 200 ft - on shorelines and streams with flows greater than 20 cubic feet per second mean annual flow. (RCW 90.58 & WAC 173-18-040-SMA) And clarify that it is not a buffer but is a boundary beyond which the Shoreline Management Act does not apply.
- G) Continue the program to collect and compile information on the specific locations of CMZs and floodplains for Jefferson County. (WAC 176-26-201(3)(c)(vii))
- H) Add a requirement to analyze mining activities to determine if measures will be required to modify actions that demonstrate adverse impact on habitat functions associated with critical areas. (Similar to a shoreline conditional use permit)
- I) Clarify that “Frequently Flooded Areas” will be addressed as a critical area linked with Channel Migration Zones – rather than with other critical areas such as wetlands, shorelines and streams.

This motion was delayed until the friendly amendment was voted upon.

After close of discussion on the friendly amendment, the Commissioners voted on the friendly amendment, which passed.

Edel Sokol stated that DOE Guidelines have not been verified as scientifically accurate data.

The Commission continued discussion on JD Gallant’s motion, but included discussion of William Miller’s motion as it is relevant.

Mike Whittaker said that the ordinance needs to be financially feasible and enforceable. He said that the County already has issues with enforcement and recounted a story regarding difficulties with his own land. Henry Werch said that no ordinance polices every individual, but rather allows regulation in case of flagrant violation. He advised against basing decisions about regulations on whether or not the public buys into it.

Henry Werch offered a friendly amendment to JD Gallant’s motion to direct the Planning Department to include William Miller’s motion outlined above as A through I and incorporate those elements into the ordinance. The friendly amendment was approved with five in favor and three opposed (5-3-0).

Discussion continued on the original motion put forward by JD Gallant. Edel Sokol said that a local government can’t disregard science simply because of the decision it wants to make. Henry Werch read from the CTED Critical Areas Assistance Handbook, which states

that geologically hazardous erosion such as those areas occurring from coastal erosion or stream bank erosion, as well as CMZs, should be designated as critical areas. Bud Schindler asked what problem is being addressed by adding CMZs when it's already covered by other measures. Bill Miller said the CMZs will cover land once it's converted from forest practices. Peter Downey said that the reasoning behind including CMZs is because they're addressed in the WEC Settlement and they will end up in court if CMZs are not included in the ordinance. Mike Whittaker and Edel Sokol said that they feel bound to the people, not to WEC.

The motion put forward by JD Gallant, as amended, was approved with five in favor and three opposed. (5-3-0)

### **C. FISH & WILDLIFE HABITAT CONSERVATION AREAS**

Bill Miller moved that the Planning Commission recommends that the CAO contain a revision to Article VI-H, Title 18.15.315 for Fish and Wildlife Habitat Critical Areas (FWHCA) that will:

A) Establish the buffer distances for each stream type as follows: Type S stream-150 feet, Type F stream-150 feet, Type NP stream- 75 feet-100 feet (this would be a function of the impact from proposed use), Type NS stream-75 feet-100 feet (as a function of impact from proposed use), and Marine Shoreline-150 feet (subordinate to Shoreline Management requirements).

B) If a stream buffer exceeds the width of a CMZ, analysis of the impact of the proposed use will be the basis for determining the extent of the requirement for an adjustment to the buffer.

C) Establish a project to identify additional core habitat areas in corridors in Eastern Jefferson County while developing strategies for protecting wildlife habitat as part of a landscape approach for habitat conservation management and that those strategies shall address regulatory and non-regulatory approaches. This effort will use the current identification of core habitat areas and corridors in Eastern Jefferson County as its starting basis. Henry Werch seconded the motion.

Bill Miller said that this text is directly responding to the Second Settlement Agreement. He specified Eastern Jefferson County as that's how the Settlement Agreement reads, but he's willing to change it.

Henry Werch offered a friendly amendment to strike the words "additional" and "Eastern" from Section C.

Peter Downey said that he would remove Section C altogether because establishing a project to identify habitat areas should not be part of the CAO. Bill Miller said that he included Section C to encourage Commissioners to consider funding such a project, and that another motion needs to be done that addresses funding and establishing committees.

The motion failed, with four in favor and four opposed (4-4-0).

Mike Whittaker offered a friendly amendment to edit the language “the Planning Commission recommends” to read “the Planning Commission recommends by a vote of (whatever vote is determined to be).” It was decided that it is understood that the minutes always reflect what the vote on the motion is so the amendment was unnecessary.

There was discussion about the buffer sizes and whether science was being used to determine them. Bill Miller said that he took the buffer sizes from a DOE publication. Peter Downey said that the subcommittee erred in referencing the Forest Practices Act, and that the buffers should be different for residential use, where impervious surfaces need to be considered. Mr. Downey suggested deferring to the committee report, unless impervious surfaces are involved. Henry Werch said that they should look at Report #2 better, as it gives recommendations for specific circumstances for landowners. Bud Schindler suggested replacing number of feet with “TBD by best available science.” Mr. Downey disagreed, and said that would leave it up to the administrator to decide and make the policy.

Peter Downey said that he’d like to see another motion put forward that is closer to the majority report.

Mike Whittaker moved to submit Report #14 to the code writer. Bud Schindler seconded the motion.

JD Gallant said that they had agreed not to submit entire reports, but to submit specific changes. The Commission decided that if the majority wants to submit a report, they have the option to do so.

Peter Downey made a friendly amendment to Mike Whittaker’s motion to include marine habitat language from WAC 365.190.080 (5)(a)(iii) and (iv), (5)(c)(iii) and (iv) as well as the following language: “Shellfish aquaculture: Shellfish aquaculture activities within all public and private tidelands and bed lands suitable for shellfish harvest are allowed. Such activities include but are not limited to bed marking, preparation, planting, cultivation, and harvest.”

Peter Downey said that WAC requires marine habitat inclusion. There was discussion on Report #14. It was clarified that the Forest Practices Act only applies to forested areas. In the Table of Contents of Report #14, shellfish beds and kelp and eelgrass beds are referenced, but there is no inclusion of specific language in the report.

The friendly amendment was approved unanimously (8-0-0).

The commission attempted to compromise on the buffer sizes. JD Gallant suggested saving the vote for next session so that he has time to review the buffers. The Commission reviewed the comparison chart on buffers in Report #2 and the buffer sizes suggested by the majority report. It was suggested to use the current code buffers.

Peter Downey offered a friendly amendment to accept the existing code buffer sizes for Report #14. The friendly amendment was accepted with six in favor and two opposed (6-2-0).

The question was put forward on the motion to move forward Report #14, as amended. The motion, as amended, failed with four in favor and four opposed. (4-4-0)

Patricia Farmer suggested sending forward Report #14 as well as the section on Fish and Wildlife Habitat from Report #2. Peter Downey tabled the discussion until next week, and asked that the Commission come prepared to compromise. Wetlands and Fish and Wildlife are scheduled for next week's agenda. Henry Werch requested that Bill Miller's motions be circulated in advance of the meetings. Brent Butler requested that additional copies of motions be made available for staff and members of the public.

Edel Sokol moved that former Committee members and any members of the public who want to be on the email list of the Planning Commission are invited to give their names to DCD staff and will be added to the PC email list. Mike Whittaker seconded the motion. The motion was approved with seven in favor and one opposed. (7-1-0)

#### **Public Comments:**

Dennis Schultz said that CMZs are not to protect people living along rivers and in geologically hazardous areas, but are meant to preserve fish and wildlife habitat. He said that he expects the public to be upset about the vote on CMZs. He is in favor of fish and wildlife habitat, but doesn't agree with taking away all of the public's property.

Kenn Brooks said that he's really disappointed in the level of deliberations at tonight's meeting. He said that he heard no informed, scientific discussion tonight. Dr. Brooks said that these decisions affect people's lives and he expects the Commission to come better prepared to provide more thoughtful deliberations.

Jim Hagen said that he mentioned simplifying the administration earlier in the evening, yet what he heard tonight with the addition of CMZs creates more complications. He said he takes offense to the notion of enforcement being the issue, not the code, as he's heard people give detailed comment on the content of the code.

John Richmond said that he owns 90 acres on the Hoh River, most of which is in the 100 year floodplain as mapped by FEMA. Mr. Richmond said that he has experience with GPS surveying equipment and discovered that the map has significant errors. The maps inaccurately show that the floodplain covers 98% of people's residences in his area. He said that it's naive to expect that the public would accept buffers that invade areas that have been used for more than 100 yrs. He expects more from the Commission.

Amy Hiatt announced that the document on DOE Guidance on wetlands arrived. She has six copies available.

Teren MacLeod said that it's extremely hard to understand the choices the Commission is making regarding CMZs, when they're choosing to regulate where there's no mandate to regulate. Ms. MacLeod said these decisions will create a wildlife conservation area out of the whole county. She said there will be uproar from the public regarding these decisions and asked the Commission to please report to the public rather than outside bodies.

Renee Bush said that under the Forest Practices Act, the landowner has the choice to either have the state purchase the CMZ or pay for the cost of lost harvest on that land. Ms. Bush asked if the County is prepared to pay for loss of use of CMZs.

Frank Hoffman said that CMZs exist and it's inappropriate to make believe that they don't exist. He said that the law talks about BAS, and the Commission often doesn't sound scientific in its deliberations. He said that the Commission is being asked to balance protecting habitat with future development, and the Commission has the responsibility to represent wildlife. Mr. Hoffman thanked the Commission for keeping at this difficult task.

Norm MacLeod said there's no disagreement about whether CMZs exist; the question is how they are to be regulated. He said they are already heavily regulated and doesn't agree with the reasoning to regulate them further because other counties are doing so. Mr. MacLeod said that CMZs are already mapped, yet he hears no discussion about the impact on developed areas such as village centers, UGAs, etc. The impacts of CMZs on developed areas affect the viability of the community's continued existence. In regards to the discussion of buffer sizes, he said it's not appropriate for BAS to disintegrate into an arbitrary discussion of numbers. He said he heard talk of getting WEC off of their back. He wants more attention given to inside special interests.

Tom Stevens said that it's absurd to include CMZs in the ordinance as they're already covered in the SMP. He said adding CMZs now and removing them from the code later is a waste of time, money and effort.

Mike Belenski said he supports the comments from the public. He said that he's never seen anything shielded from the public by the Planning Department. Mr. Belenski said that the Commission is treating the WEC agreement as if it is the Ten Commandments. He said that the public was not included in WEC's deliberations of the Settlement Agreement and the County Commissioners performed discreet acts regarding the Settlement Agreement. He said the County Commissioners are not to be relied upon as they didn't follow the advice of GMA that says there shall be continuous, early, meaningful public participation in the process.

Jim Tracy said that possibly none of the Commission members understand Jefferson County's adopted storm water management, which is accommodated by DOE. He said that the existing ordinance does not incorporate BAS in terms of impervious surface water. Mr. Tracy said that by deferring to WEC rather than the voice of the public, the Commission is "choosing plaintiffs," essentially choosing sides. He said that the Commission's credibility is based on identifying BAS when they make their arguments.

**D. ADJOURNMENT**

Edel Sokol said that in her experience on the Planning Commission, she had never been at a meeting with a prepared motion without discussion. She said she had never been at a meeting where a motion was made and voted on the same day. Peter Downey said that he would like people to come with prepared motions because they need a motion before they can go into discussion. He said to come prepared to discuss issues so that they don't repeat tonight's travesty.

The meeting was adjourned at 10:25 pm.

**E. APPROVAL OF MINUTES**

These minutes were approved this \_\_\_\_\_ day of July, 2007.

\_\_\_\_\_  
Peter Downey, Chair

\_\_\_\_\_  
Angela Wade, Secretary