



## **JEFFERSON COUNTY**

### **PLANNING COMMISSION**

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

#### **MINUTES FOR JULY 18, 2007**

- A. OPENING BUSINESS**
- B. FISH & WILDLIFE HABITAT CONSERVATION AREAS**
- C. 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 Peter Downey, Bill Miller, Patricia Farmer, Bud Schindler, Henry Werch, Mike Whittaker, JD Gallant, Ashley Bullitt and Edel Sokol.

DCD staff present were Al Scalf, Joel Peterson, Karen Barrows, Donna Frosthalm and Angela Wade (secretary).

There were about 26 members of the public present. Those who signed the guest list were Larry Bonar, Bill Wheeler, Frank Hoffman, Jim Storey, Renee Bush, Jim Fritz, Scott Clogston, Sue Hopkins, Dennis Schultz, Clark Crandall, Jim Hagen, George Yount, Norm MacLeod, John Richmond, Bryon Rot, Julie Jamal, John Gieser and Kenn Brooks.

The minutes for May 30<sup>th</sup>, 2007 were approved as submitted. The minutes for June 13<sup>th</sup>, 2007 were approved as submitted. The minutes for June 20<sup>th</sup>, 2007 were approved as submitted. The minutes for June 27<sup>th</sup>, 2007 were approved as submitted.

### **Staff Updates:**

Al Scalf said that it is budget season. He requested the PC to review their schedule and project ahead for the coming year; including the number of times they plan to meet and any additional expenses. Peter Downey said he anticipates that once the CAO was done, the PC would go back to their regular schedule of two meetings per month.

Al Scalf reported that following interviews for Appellate Hearing Examiner in Port Ludlow, Attorney Phil Holbrook was selected and will be offered the position.

Al Scalf reported that Michelle McConnell was hired full time as an Associate Planner in Long Range Planning for additional work on the SMP.

Al Scalf said that there was no word from WEC on the request for a time extension on the CAO.

Karen Barrows reported on the Comprehensive Plan Amendment cycle. The Integrated Staff Report and SEPA Addendum is expected to be published on September 5<sup>th</sup>; the public hearing will be held on September 19<sup>th</sup> and will include all amendments except the MPR in Brinnon.

Assuming that the MPR draft EIS is published on September 5<sup>th</sup>, the meetings are expected to resume on September 11<sup>th</sup>. The PC will hold a public hearing in Brinnon on the proposed MPR application on October 3<sup>rd</sup>.

Karen Barrows recommended that the PC review the amendment applications before the public hearings.

Joel Peterson reported on the DOE collaboration meeting held last Friday. He said that they established ground rules and discussed goals, which were narrowed to rural stewardship and researching a successful example of rural stewardship. The next meeting on August 1<sup>st</sup> will be held at the WSU Extension office. Ashley Bullitt said that in conversation with Heidi Eisenhour, she discovered that the Jefferson Land Trust has already been working on rural stewardship for some time and suggested that Ms. Eisenhour contact the newly formed DOE collaboration group. Planning Commission members present at the meeting were Bud Schindler, JD Gallant, and Patricia Farmer. At the meeting Bud Schindler explained the Planning Commission's double tiered approach to the CAO. Al Scalf spoke about rural stewardship plans based on adaptive management and monitoring and gave King and Island Counties as good examples. JD Gallant said that he was impressed with the facilitation of the meeting and that most of the discussion was an exchange between Kenn Brooks and Andy McMillan. Mr. Gallant also said it was suggested that the PC move ahead according to their timeline and incorporate recommendations from the group as they develop later. Patricia Farmer said that she was impressed with Andy McMillan and that the focus of the group, as stated in Andy's previous letter, is rural stewardship. Peter Downey said that the biggest issue with the two tiered approach is that they don't have a template for the performance option and he would like to see this group possibly help with this issue. Al Scalf said that a habitat management plan could be for residential, agriculture or forest land.

Mike Whittaker asked for an update on the code writer. Al Scalf said that staff is meeting with Eric Toews every Thursday morning, and providing him with the new motions passed at the PC meetings. Mr. Scalf said that the code writer is eagerly awaiting additional recommendations from the PC.

Al Scalf said that there's no additional news on the UGA settlement offer.

Joel Peterson announced that the Olympic Peninsula Planner's Forum will be held on Friday June 20<sup>th</sup> at the Pope Marine Building.

Joel Peterson announced that the 2007 Great Northwest Planning Conference, a regional planner's forum, will be held October 3<sup>rd</sup> -5<sup>th</sup> at the Greater Tacoma Convention Center.

Henry Werch asked that the minutes for July 11, 2007 be amended to remove the sentence on page 7 that said "Mr. Werch said this means that they don't have to write a new CAO sometime in the future." He commented that this is a factual correction and that Counties have to rewrite CAO's. These minutes will be approved at a later date.

### **Committee Reports:**

Bud Schindler announced that the MPR meeting scheduled for the end of the month had been cancelled as they decided to wait for the completion of the draft EIS. The meeting agenda had intended to include discussion on the economic impact of the effort and the relation of public facilities (school, police and fire department.) Karen Barrows anticipates the draft EIS to be complete by September 5<sup>th</sup>.

Bud Schindler gave the following disclosure statement regarding the MPR: “My wife and I are principal owners of the Windermere Real Estate offices in Brinnon and Quilcene and also part owners of Windermere Real Estate offices elsewhere. Also, we are owners of a home located on Black Point. To be consistent with Section 14 of our bylaws, I disclose that I feel there is not a conflict of interest between myself as a planning commissioner as it relates to the Black Point Resort Project MLA 06-87 and I can be an impartial planning commissioner.” He continued, “I live about a mile from where the resort is. As I look back on the rulings in the Appearance of Fairness Doctrine, there is a ruling about someone who lived a block away from a development and there was a ruling not in their favor. To be consistent with the rules of our bylaws, I’m required to disclose this and I will state that I am not going to be bias.”

### **Public Comments:**

Peter Downey requested that the public comments be limited to three minutes apiece.

Dennis Shultz commented on the Fish and Wildlife Majority Report. In the wetlands section, the wetland rating system includes a fish and wildlife habitat section in regards to determining buffer widths and they defer to the largest wetland buffer, which may be equal to or larger than any fish and wildlife habitat. He said there is no sense in setting up a separate fish and wildlife buffer in that section. In regards to Henry Werch’s reference to the WAC 365-195-900 through 920, Mr. Shultz requested that a copy of the full set of the 900 series be distributed to all the PC members. He said that first of all this is not a DOE WAC, but a CTED WAC. He also said that a large section of that WAC is directed towards counties adopting a comprehensive plan for the first time. The whole section is full of “mays” and “shoulds” and it says that if you don’t have BAS, you “should” do this, but it doesn’t give alternatives. He said that by the WAC’s standards and qualifications for BAS, DOE BAS is marginal.

Frank Hoffman commented on the disagreement about population growth in the county and the question that if there is not great growth, should we be concerned about critical areas. He said that he imagines very large homes being built across the county in the future and referred to an article in the Seattle Sunday paper titled “Can You Afford a Second Home.” The article lists Port Townsend as one of the emerging market favorites for cities in which to acquire a second home. Mr. Hoffman said he imagines that there will be pressure on landowners in Jefferson County, and now is the time to protect critical areas, not the future. He said that we need protections that are workable, functional and appropriate, and they should not be dependent on questionable grants. Mr. Hoffman

recommends prudence and suggested that the PC accept DOE and CTED's recommendations on buffer widths.

Jim Hagen said that lately there's been a lot of talk about the threat of inappropriate, irresponsible development. He said that when Rick Mraz was talking about the demographics and sparse population of the county, he said that we have to prepare for the unexpected. Mr. Hagen said that in considering the threat of inappropriate development, it should be supported by findings of fact. He said that a newspaper article isn't a finding of fact. The CAO being drafted will be in effect until 2011, and should address current conditions. He said he's being hearing the comment: "farmers taking the money" in reference to farmers being pressured to accept large sums of money for their land. Mr. Hagen said that before farmers could accept such offers, the land would first need to be converted to rural residential and he doubts any county commissioner would approve of that conversion. He said it's interesting that a year ago opponents of 933 said that 933 would appeal the Growth Management Act (GMA), which was meant to keep development in check, and now, a year later, they're being told that the same GMA is unable to prevent irresponsible development. He recommended that staff take fifteen minutes to explain to the PC what the procedures are for changing rural residential densities, for changing land uses, and particularly for changing agricultural land to other uses. He believes it's impossible to change agricultural land to commercial land under GMA.

Bill Wheeler said that their stream side buffer report was based partially on DNR's buffers for small forest properties (less than 20 acres.) He said that more importantly, DNR, supported by state legislature, has decided that small forests must have a relief from buffers in order to be viable. They essentially give about half the buffer of commercial forests. For properties 20-80 acres, DNR has a repair and easement program. He said that the state will pay for trees in that buffer for fifty years, and the landowner still owns the property and can manage it. He said that the point is that the state has determined that the taking of a buffer is something that needs to be compensated for. Mr. Wheeler asked the PC to be careful when determining buffer sizes and consider that buffers may take value from the landowner.

Larry Bonar said that a good example of improper protection of wetlands in Jefferson County are the contaminated lakes in the county. He said that the lakes contain an excess of algae and the reason is thought to be the elevated levels of toxins from leaching of elements that are normally nonexistent in freshwater, probably nitrates and phosphates.

Byron Rot recommends keeping the existing rules on stream buffers with the exception of increasing the buffers an additional 50-70 feet on fish bearing streams. He said that a buffer of 150 feet may not be adequate. Mr. Rot said that many types of wildlife need a larger buffer. He said that he's not talking about setting a lot of land aside, this is a minimal amount; he's talking about protecting wildlife. He said that buffers are just a base for habitat, that 150 feet isn't a maximum amount for wildlife; it's actually a mid-low range buffer size for wildlife. In regards to the Planning Commission's decision on

high hazard CMZs, he said that in Sue Perkin's document, high hazard is defined differently. He recommends full CMZ, where it will be in the next 100 yrs.

Roger Short commented that in some instances the government has screwed up more than bad developers. He gave the example of Anderson Lake and said that in the 1950's you could drink and swim in the water when owned by Mr. Anderson. Upon being sold to the government, 200 acres was taken out of agricultural use and turned into a state park. He also said that the fish in the lake were poisoned by Fish and Wildlife. He mentioned other instances of poor decisions on the part of government, including encouraging the use of nitrogen fertilizer and requiring loggers to clean the streams with bulldozers. He said that landowners are frustrated and question the practices suggested by government and he questions how much regulation is enough. Mr. Short said he's concerned about which species are being protected. He would like to see not only salmon protected, but other species as well, such as the trumpeter swan. He said that he and others have lost their retirement due to regulations, and he would like to ask the government how they would feel in the same situation.

Jim Fritz said that his concern with development is the possibility that people may build very large homes in the county, and wonders if we should set a limit on the size of homes in critical areas. He referred to a 26,000 square foot home built in Montana, and wonders if that will become a trend here.

Al Berks, with the City of Port Townsend, said that the idea that all government regulations throughout history have led us to a place where we should have no regulations is foolish and inaccurate. He said that we now have a significant population of eagles across the country due to government regulations around the use of DDT. Mr. Berks also referred to a recent ruling in Oregon, where Coho regulations were thrown out because they didn't use BAS. He urged that the PC use BAS, saying that otherwise they would be sued by environmentalists and their regulations would be thrown out in court.

Julie Jamal representing the Olympic Environmental Council spoke in support of the minority recommendations. She said that the DOE BAS has been peer reviewed, and there is plenty of data which refutes the data provided by Kenn Brooks. She said that they're concerned because Dr. Brook's data is out of date and not relevant to ecosystems in this area. She said that the Olympic Environmental Council has spent many years on this topic and she hopes the PC will take these points into consideration.

Denver Shoop said that many environmentalists are out of line.

Kenn Brooks has said many times that many of us are interested in growth management and the rural environment of Jefferson County. He said that growth should be managed by the Comprehensive Plan, not the CAO. He doesn't want to see the CAO imposing rules and restrictions on landowners that deny their right to enjoy their property. Dr. Brooks said that he would be upset if the PC and BoCC start up zoning areas of the county to allow high density residential development, but the CAO is not the place to address this. He said that he has 200 copies of the NRCS booklet: Conservation in Your

Backyard that he will be distributing, along with some other materials on stewardship. In reference to comments from environmentalists that the committee's recommendations suggest no protection and no regulations for fish and wildlife habitat, he said these statements are simply not true. He said the question is to what degree is the government going to micromanage property. Dr. Brooks said that he had a productive conversation with Andy McMillan, and that Mr. McMillan readily acknowledges that our supplemental BAS has brought up numerous flaws in the DOE BAS. Mr. McMillan said that he wants to find resolutions to those differences, and will be meeting over the next several months to address this. In regards to low density rural residential, Dr. Brooks said that there is simply a lack of science, and they're looking at how to remedy this. Mr. McMillan had said that DOE ran out of money for consultants, and in the end, took a moderate approach.

Nancy Stelow has been a realtor in Jefferson County for eleven years. She said that if they want the facts about who's moving to the county, sizes of houses, etc., DCD as well as the realtors have this information available. Regarding BAS and GMA, Ms. Stelow reminded the PC that there is an economic development aspect. She said that 95% of the land is in parks and recreation areas.

## **B. FISH AND WILDLIFE**

Peter Downey spoke about the difference between mitigation and habitat management plans. He said that compensatory mitigation is required when a critical area is impacted, which is different from a management plan that prevents any impact. He said if you look at mitigation sequencing, the first step is avoidance but DOE doesn't address how to do this. Mr. Downey said that a habitat management plan will address how to avoid impacting the critical area. He thinks that they are lacking guidance and thought on what a habitat management plan means for a residential area. He said that Al Latham has been thinking about this and may have more information next week. Bud Schindler suggested that Kenn Brooks and Dennis Shultz look into habitat management plans that are all-inclusive and address all types of critical areas. Peter Downey suggested not doing anything formal, but waiting for Mr. Latham's ideas which will be developed quickly.

Bill Miller moved that the Planning Commission recommends that lines 1997 thru 2102 of Report #2 be given to the code writer for incorporation into the CAO with the instruction that line 2035 (addressing Fish bearing streams) be edited to state "150 feet". Patricia Farmer seconded the Motion.

Edel Sokol requested staff to provide a projector so that public can see the pages as the PC discusses them. Staff responded that the point was well taken.

In discussion, Peter Downey said that essentially this motion takes the standards of habitat conservation area buffers from Report #2 and moves it all forward. He said that this provides a prescriptive approach, but they need to also develop a performance approach. There was discussion as to whether this section adequately addresses both a prescriptive and stewardship approach. Bud Schindler said that within the reduced

buffers and buffer averaging, it doesn't state a need for a habitat management plan. Mr. Downey clarified that a habitat management plan is separate from the prescriptive approach. It was decided to first discuss the prescriptive approach and stop at line 2083 rather than 2102. Bill Miller said his recommended buffers are reasonable prescriptive buffers for low-impact, single family homes, are consistent with what the tribes want, and track closely with DOE. Mr. Downey was also concerned with number 1 on line 2031 that gives a buffer of 200 feet for CMZs. He said that this conflicts with the PC's earlier decision to limit CMZ buffers to high hazard CMZ so that buffers aren't too large.

Henry Werch proposed a friendly amendment to replace "200 ft" on line 2031 of Report #2 with the language already agreed to regarding CMZs.

Bud Schindler said that if you look at the buffers in farming practices in Jefferson County, very little of it is done in a prescriptive manner; most utilize a stewardship approach. He believes that the stewardship approach will be the most critical. Al Scalf clarified that the majority of people coming in for permits currently choose the prescriptive approach rather than alternative approaches such as buffer averaging, buffer reductions or habitat management plans. Mike Whittaker asked if there is a cost associated with the alternative approaches currently available. Mr. Scalf said that under the current code, the cost of a habitat management plan is born by the applicant. Mr. Whittaker said that people could be deferring to the prescriptive approach because they can't afford the other. Mr. Scalf said that the common reason why people choose the prescriptive approach is the time frame. He said that permits are processed faster with the prescriptive approach and people choose the quicker approach.

In discussion about the two tiered approach, Peter Downey said that prescriptive buffers may appear onerous, and can be reduced with a good habitat management plan. Henry Werch stated that he wouldn't endorse any buffer because it's onerous as a motivational tool. Mr. Werch believes they should motivate people to take a stewardship approach. However, Mr. Werch said that if the buffers are very small, there will be no motivation to take the stewardship approach. Mr. Werch said that the buffers that they do select should be supported by BAS, and not selected because they're onerous. Mr. Downey said that the intent is that the buffers provide adequate protection.

Mike Whittaker proposed a friendly amendment to remove the language "require buffer planting or enhancement" from line 2017 because the GMA doesn't require any enhancement.

Mike Whittaker said Report #2 is taken from Whatcom County's ordinance, and he doesn't want to just adopt another county's ordinance. He suggested taking the good points from the report, but was hesitant to adopt an entire section.

Henry Werch said he's impressed with the direction of this report, and would like to stress even more strongly that there is clear opportunity for individuals with a single family home. He read from line 2115 "The Technical Administer shall have the authority to waive the report requirement when he/she determines that the project is a single-family

development that involves less than 0.5 acre of clearing and/or vegetation removal and will not directly disturb the species...” Mr. Werch said that these types of alternatives and options that divert from the prescriptive approach where appropriate are important, but only when a site-specific approach can be exercised. He agrees with Dr. Brooks that a site-specific approach is best, but this county doesn’t have the funds to do this in every case. He suggests providing a prescriptive approach with the option for an alternate habitat management plan. He said that if the information in Whatcom County’s code is worthwhile, they shouldn’t feel badly about using it for Jefferson County.

Edel Sokol said that she will accept Mr. Miller’s motion if all of paragraph B (lines 2013-2038) is struck.

Edel Sokol suggested inserting language from Report #14, page 10, line 385, b) Increased Buffer Widths. Edel Sokol read from Report #14, page 10, beginning on line 395 “ To increase a buffer width, the Administrator must be able to demonstrate that the buffer in the table will not be adequately protective and state the specific reason for the increase.” Peter Downey said that the language is arbitrary. Ms. Sokol said they could change the wording, but it’s important that the government/staff is held accountable for their actions. Henry Werch said that this would replace lines 2084-2106 of Report #14. The PC decided to table this discussion until they discuss these lines in Report #14.

Bud Schindler asked if they should include a provision for increased buffer widths without a habitat management plan. He said that they include decrease and averaging options, but nothing about increasing buffers. Bill Miller responded that Mr. Schindler’s suggestion could be incorporated somewhere in the following section with the habitat management plan, lines 2084-2102, or in some other section of the ordinance.

Mike Whittaker referred to line 2037, “4. Non-fish bearing streams – 75 - 100 feet” and mentioned that Whatcom County uses 50 feet. He also referred to the table on line 2043, and read “Buffer Requirement: Buffers shall be based on recommendations provided by the WDFW Priority and Habitat and Species (PHS) Program...” Mr. Whittaker said that the recommended widths on page three of the PHS handout are conflicting with Report #2. Peter Downey said that another concern is that the stream typing is different. Bill Miller said that the federally listed species apply, but maybe not the State Priority Habitats and Species.

Kenn Brooks said that it’s important to understand that all the commercial and recreational species in the state are priority species (grouse, deer, etc.) He said that if they included those, it would essentially make all of Jefferson County a critical area. The PC noted that the State Priority Habitats and Species list includes bald eagles, Brandt’s Cormorants, clams, oysters and other common species. Donna Frosthalm said that just because the bald eagle or osprey is on list, it doesn’t follow that the entire county is habitat. Ms. Frosthalm said that these species have key areas for their habitat, and the same is true of other species.

The PC decided that they aren't aware of the consequences of including the State Priority Habitats and Species list at this time. They agreed by consensus not to include the list at this time until they know more about it. Al Scalf said that staff would look into it and will report on it next week.

Peter Downey noted the language that was already adopted that allows shellfish aquaculture and commercial and recreational shellfish beds.

Bud Schindler suggested striking the buffer widths of 2, 3, and 4 on page 50 and use DFW buffer widths. Peter Downey disagreed because the DFW buffers use a different stream typing, and they only apply to the State Priority Habitats that they adopted, which they decided not to include at this time.

Bill Miller stated that the Motion has been modified as follows:

The Planning Commission recommends that lines 1997 thru 2083 of Report #2 be given to the code writer for incorporation into the CAO with the instruction that line 2035 (addressing Fish bearing streams) be edited to state "150 feet" and:

- \* Remove the following language from line 2017 "require buffer planting or enhancement"
- \* On lines 2021-2023, delete the language "provided that for streams with identified channel migration zones, the buffer shall extend outward horizontally from the outer edge of the channel migration zone on both sides." And add "Nevertheless," before "The required buffer shall be extended..." on line 2023.
- \* Delete line 2031, "1. Channel Migration Zones – Shorelines of Statewide Significance -200 feet."
- \* Remove "State Priority Habitats and areas with which Priority Species have a Primary Association" from the table on page 50, line 2043 for the time being.

The Motion was approved as amended, with six in favor and three opposed (6-3-0).

Mike Whittaker said that he's concerned about line 2037, 4. Non-fish bearing streams. He said that they need an analysis of what the impact is for the size of the stream. JD Gallant said that we do have mitigation. Mr. Gallant said that they need to leave as much possible in and around mitigation to take place, like buffer averaging. Peter Downey said that buffer averaging is not mitigation. Mr. Downey said that we need to be careful about language, that mitigation takes place after an impact has occurred.

Mike Whittaker moved to strike "75 – 100 feet" from line 2037, 4. Non-fish bearing streams, and replace it with "50 feet." Bud Schindler seconded the motion.

There was discussion as to whether or not to remove the remaining language in line 2037, "depending on physical characteristics in Table X." Jill Silver said that Table X is yet to be developed, and will be based on stream geomorphology. She said that higher

buffer widths will be applied to streams with high mass wasting potential, and lower buffer widths will be applied to those streams without it.

Bill Miller said that existing buffers are consistent with what the tribes want. The tribes are recommending a seasonal buffer of 75 feet, and a perennial buffer of 100 feet. Mr. Miller said that these numbers probably need to be looked at in regard to the table. He continued that if they really have information suggesting that the buffers be made smaller, then they should do it, but he's not convinced at this time.

Kenn Brooks said that the definition of a stream is flowing water that creates a channel. Dr. Brooks said that many of them are not very wide (2 feet) and are seasonal and dry a good part of year. He said that these are the streams that you're proposing to put a 75-100 foot buffer on. JD Gallant said that he knows of a 6 foot stream in the county that has a 30 foot buffer and asked why it doesn't have a 100 foot buffer. Al Scalf responded that the administration does buffer averaging and buffer reduction, but he can't think of a case of buffer increasing.

Peter Downey suggested tabling the topic until they have more information. He said that they will also revisit the priority species table.

Edel Sokol said that she would like to have public comment on regulations before they're sent on, because once they are sent on, they have a way of staying around. Bill Miller said that they have an obligation to read everything once it's back from the code writer. Mr. Miller said that then it will be more cohesive and can be adjusted. Mr. Miller agreed that they need qualifications for management plans in order to send this forward. Bud Schindler asked how they were going to address the stewardship portion. JD Gallant referred to Andy McMillan's comment that the stewardship piece could easily be added in later. There was disagreement as to whether the DOE Collaboration group would develop the stewardship piece or if the PC would develop it. Bud Schindler requested that others present at the DOE Collaboration meeting give their input. Dennis Shultz responded that the PC should not expect recommendations from the DOE meetings until the fall and should move ahead. Edel Sokol commented on trusting DOE and adding pieces of the code later. Ms. Sokol suggested that they read the Kent court resolution, where the City of Kent went to court to fight large buffers and in the meantime, they adopted strict buffers. By the time he went to court, the court said, we don't want to hear you; you've got your buffers. Peter Downey said that his intent is to include the stewardship piece before submitting the COA to the County Commissioners. Mr. Downey said that he will write a preamble to the stewardship piece for next week.

Edel Sokol said that there is a Best Management Practices piece in Report #1 that is brilliant. Mike Whittaker said that he urges caution because although we want to protect the environment, we need to also stay in the middle of the road and produce a balanced product.

The PC decided to look at the performance approach for Fish and Wildlife and Wetlands at the same time. They decided to deliberate the Wetlands prescriptive approach at the

next meeting, referring to Report #1, lines 1079-1255, and Report #2, lines 908-1078. In addition, next week the PC will revisit the priority species table, and stream typing.

**Public Comment:**

Jill Silver commented on the PC's decision to delete CMZs and Shorelines of Statewide Significance in Report #2, line 2031. She suggested that they reconsider deleting Shorelines of Statewide Significance because there may be some that don't fall within CMZs. She also clarified that the report recommendations are not an exact replica of Whatcom County's code. She said that the committee was impressed with the clarity and readability of the Whatcom County code, but they went through it line by line with Jefferson County in mind. She continued that the structure of the code was kept in tact, and that the landscape of Whatcom County is similar to Jefferson: big mountains and rivers, shoreline, rainfall, agricultural land, etc. Ms. Silver said that even so, there were some significant changes made. She said that the buffers for non-fish bearing streams are a case in point of BAS completed in recent years that reflects the science and actual conditions in Jefferson County. She added that the caveat is very small streams, and that Table X would define the buffers for those cases.

Jim Hagen referred to a comment made by the PC regarding Mike Whittaker's motion that they needed more information before reducing the buffer size. Mr. Hagen said that what they then decided was to make the buffers larger. He referred to another comment by the PC to make a compromise to address all the input and interests of the citizens of Jefferson County. What he saw tonight was a substantial increase in buffers without the legal need. He said that the buffer increases were anything but a compromise and ignored public input received over the past year and a compromise could have been made that still met legal standards. He recommended the buffers be 150 feet, 150 feet, 100 feet and 50 feet.

Bill Wheeler said that for the last 2 years he has been involved in Jefferson and Clallam Counties' Community Wildfire Protection Plan. He said that the PC just passed a motion regarding density in a buffer zone that so far allows nothing for fire mitigation. He said that they increased the fire risk in the county, and that if a house were built next to a buffer, there is nothing in place to protect the home from a fire coming from the buffer.

Norm MacLeod referred to the PC comment about rewriting the CAO periodically. He said that the GMA requirement is to review, and if necessary, update the CAO. Mr. MacLeod said that many other publications in addition to the one mentioned earlier have stated that Port Townsend is a good place to retire. He presumes that all these articles printed over the years have brought people here. He said that he wouldn't accept the earlier attack on Kenn Brook's science. He believes the attack has no basis in fact as it contained no specific concerns about the science. Mr. MacLeod said that the PC changed buffer sizes tonight with no discussion about the science behind the changes, or the applicability to Jefferson County. He said that the recommendations by DOE and DFW are generic to the state, and GMA and WAC require that location be considered.

In regards to the prescriptive approach, he said that they haven't discussed how this will affect the people who live here. He also said that they haven't yet defined the problem they're trying to solve. He said that a solution should be based on an actual problem, not speculation. He said they're speculating about the future population of the county, and the time to address that concern is when it actually occurs.

Dennis Shultz said that very few studies have been done on wildlife in this county. He said that we have reached a state of equilibrium with wildlife here; we're not losing or gaining species. He said that by adding buffers, the PC is enhancing, not maintaining, the status quo.

Kenn Brooks spoke about BAS and requested that the PC read the supplemental BAS and the responses from lay people. He differentiated between comments from lay people and peer reviews. He said that peer reviews are detailed and scientific whereas comments from the public are often based on feelings. He said that DOE's science has not been peer reviewed in a formal sense and that Andy McMillan has acknowledged that some of their buffer recommendations are inappropriate and in particular, low value class 4 wetlands need to be revisited and some may not require buffers at all. Dr. Brooks said that BAS is not a list of references, and it is not an assertion that there is lots of new science. He advised the PC to be careful as they're being misled about what BAS is.

Larry Bonar said he has published dozens of peer reviewed papers and reviewed others' papers. He said that as a policy making body, they're in with the difficult position. He said that experienced people often pick the science that fits their argument, but the PC must find the consensus of what most scientists think.

John Richmond asked how and when the public will get a copy of the first release from the code writer. He requested that they provide a projector at the meetings to benefit the public as well as the PC members. Mr. Richmond said that they need to discern what information is not relevant, and may be extraneous. He said that he's happy to return to the west-enders and report that the train is on the right track.

Renee Bush said in reference to Mike Whittaker's comment about Whatcom County's Code, that the Committee did do it's homework after a year of meeting. Ms. Bush said that the public comments become a part of the public record, yet there is no way for the public to reflect changes to be made to their comments as recorded in the minutes. She said that minor changes in verbiage or minor errors can change the context of the comments and requested a way for the public to note corrections to the minutes. In reference to the technical administrators who have broad discretionary powers, she asked who these people are and who oversees them. Ms. Bush said that she would like to see a stewardship approach included, but if it is an expensive and timely option for the landowner in comparison to the prescriptive approach, then it presents no choice. Ms. Bush said that a 150-200 foot buffer may not sound large, but as streams are not often on the property line, the buffer is actually double that amount, including both sides of the stream. She said that everything should be done to protect the environment but the effect on the landowner should be considered as well.

Frank Hoffman said that the PC is doing the work that they need to do. He said that the political part is trying to make sense out of everything they're presented with and finding a balance

### **C. ADJOURNMENT**

Al Scalf said that the Planning Commission Public Review draft would be released in mid-October and will be posted on the DCD website when it's ready for the public hearing. In reference to public comments, Mr. Scalf said that the minutes are not verbatim and the public comments primarily create the possibility of standing for a petition for review. He said that the public can submit their testimony in writing, or give it verbally. He also said that the technical administrator is Stacie Hoskins.

Mike Whittaker said that he has bylaw proposals and would like to discuss them first at the next meeting.

Bud Schindler asked if there is a flaw in the bylaws regarding purge and taint. He said that they have the Appearance of Fairness Doctrine to guide them. JD Gallant agrees that the wording is rough, and at least needs to be rephrased. Edel Sokol said that the two are different, that the Appearance of Fairness Doctrine addresses how the PC is perceived by the public and is not quasi-judicial.

The meeting was adjourned at 9:45 pm.

### **D. APPROVAL OF MINUTES**

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

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

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