



JEFFERSON COUNTY

PLANNING COMMISSION

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JEFFERSON COUNTY PLANNING COMMISSION

MINUTES FOR AUGUST 8, 2007

- A. OPENING BUSINESS**
- B. PRESCRIPTIVE WETLAND BUFFERS**
- C. ADJOURNMENT**

A. OPENING BUSINESS

The special 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 Joel Peterson, Karen Barrows, Al Scalf, Donna Frosthalm and Angela Wade (secretary).

There were about 15 members of the public present. Those who signed the guest list were Jim Storey, Frank Hoffman, Jim Hagen, Clark Crandall, Sue Hopkins, Norman MacLeod, John Richmond, Teren MacLeod and Kathy Dickson.

Staff Updates:

Joel Peterson stated that today marked the close of Requests for Proposals for the Community Block Grant applications. Habitat for Humanity submitted an application to develop low income housing in Jefferson County. The applications will be taken to the Housing Action Plan Network for review. The grant cycle begins in September, 2007.

Karen Barrows supplied copies of the anticipated fall 2007 Planning Commission Schedule.

Al Scalf reported that the 2008 budget for DCD had been submitted. He said that the budget was essentially the same as last year; however, inflationary costs like medical insurance and operation expenses are up. He said that there is a lot of competition in the general fund and he's curious to see if the fund can compensate for DCD's increased budget.

Al Scalf said that legal representation for the planning commission was not included in the DCD budget. Mr. Scalf referred to an email to the PC Chair, Peter Downey, from the BOCC. The email stated that although the BOCC understands the PC's wish for legal representation, they currently decided not to allocate funds for this purpose and suggested that the PC continue as they currently do, by requesting DCD to obtain a legal opinion on any given issue. Mr. Scalf said that if DCD determines that the issue is of significant importance, it will be forwarded to Attorney David Alvarez. Peter Downey requested that the email be forwarded on to the rest of the Planning Commissioners.

Peter Downey mentioned a change in the agenda from previous meetings to allow for only one public comment period. He said that his intent was not to cut back on public comments, but to provide more time for the PC to deliberate.

Committee Reports:

Bud Schindler reported that the Brinnon Master Plan Resort meeting will include discussions on the economic impact of the project to the community. Ian McFall and Katherine Baril will be present at one of the scheduled meetings.

Al Scalf said in reference to the UGA that they are currently in the appeal period for the ordinance line in, line out recommendations. Mr. Scalf said that they received a letter from the Department of Health indicating that the sewer plan is approved.

Al Scalf said that there were no discussions on the settlement offer in the last month.

Henry Werch asked about the moratorium on distribution of development funds pending resolution of issues. He said that Brent Butler had referred to this earlier. Al Scalf responded that this was in regards to public works trust fund loans. He said that it hasn't been resolved, but in discussions with CTED, he feels fairly confident that they won't be penalized for noncompliant status due to their attempts to comply. There are currently no funds being withheld.

Al Scalf said that the Department of Health's request for funds for an archaeological inventory at Beckett Point had been denied. He said that eleven counties applied for the DOE funding, and two received the grant money. He said that so far they have found no artifacts of significance based on shovel testing and auger drillings. The large offsite septic system is being funded through the PUD and homeowners.

JD Gallant said that the Bylaw Committee is on target.

B. PRESCRIPTIVE WETLAND BUFFERS

Bill Miller said that he likes the prescriptive buffers presented in Volume II of the Washington Wetlands Guidance for Protecting and Managing Wetlands. He referred to Tables 8C-4, 8C-5, 8C-6, and 8C-7 in which buffers sizes are determined as a function of the scores for habitat, hydrologic functioning and water quality. He said that the significant score is the habitat score. Mr. Miller said that Jefferson County is rural and development here is mostly in reference to single family homes, most of which are fall under Category III and IV wetlands. He said that he doesn't expect that they would impose particularly strenuous buffers on homeowners, and any exceptions would have alternative options.

Bud Schindler recommended going with Dr. Brooks' approach in Report #1. Mr. Schindler believes that this approach is more sensitive and applicable to rural counties. Referring to Report #2, he expressed concern that the Appendix is not applicable, and there is some repetition of content in the Forest Practices Act.

Henry Werch said that Dr. Brooks' approach incorporates many aspects worth looking at, but some of them fail any test to fit within BAS because they have not been peer

reviewed. Mr. Werch said he does agree with Report #1's recommendations that every property owner should be provided with an easy alternative to the prescriptive buffers.

Discussion continued as to whether or not the formula that Dr. Brooks proposes in Report #1 is backed by BAS and has been peer reviewed. JD Gallant said that he feels strongly that the buffers proposed in Report #1 are too small for Jefferson County. Mr. Gallant said that the PC had already decided to set reasonable prescriptive buffers and he thinks the buffers that they've had for the past 5-10 years are good.

There was discussion as to whether or not the PC members were qualified to determine if reduced buffer sizes are harmful. JD Gallant responded that as a group the PC is qualified to come to a consensus and produce reasonable recommendations.

Edel Sokol said that diversion from BAS is against the law. Edel Sokol read from WAC 365.195.915. "A county or city departing from science-based recommendations should: (i) Identify the information that supports its decision to depart from science based recommendations; (ii) Explain its rationale for departing from science-based recommendations; and (iii) Identify potential risks ..."

Ashley Bullitt said that various scientists have differing views on what is BAS. She suggested that the PC, as a committee of citizens, approach BAS as scientists do, by looking at the methodology. Ms. Bullitt said that they can depend on the scientific method as it has been proven over the years. She said that the essential part of the scientific method is the review of conclusions by other scientists, i.e. peer review. Ms. Bullitt said that if the science hasn't been peer-reviewed, it doesn't matter whether or not the PC agrees with it.

Bill Miller said that the guidance is for risks and they are looking for what is an acceptable risk. He said that Dr. Brooks has proposed another method, which may be good, but according to Mr. Miller's calculations, the scoring under Dr. Brooks' approach is significantly lower than under DOE's approach. Mr. Miller suggested that they use DOE's buffers, and start a measuring program to determine if, in the future, the buffer sizes can be reduced. He said that it's their responsibility to err on the conservative side, and that they're obligated to the landowners to protect the land, because once it's destroyed, they can't go back.

Henry Werch said that although Report #1 did a good job of raising questions that need to be answered regarding where buffers should be, the proposed formula doesn't yet have support in the scientific community. He said that when a family is proposing to build on a five acre parcel, they are not looking to develop the entire parcel. He said that a narrow buffer is risky and he wants to minimize risk. He would like to use prescriptive buffers based on currently recognized BAS, as well as allow the administrator to be able to work with the petitioner so that some portion of the buffer can be waived to accommodate a single family home. Mr. Werch said that Report #2 allows for this somewhat and needs to be broadened. He said there should also be an affordable, non-onerous adaptive management plan available.

Patricia Farmer read from a letter dated June 9th from Laura Rosenberg, “In my opinion, to accept the science presented by one scientist in the county over that of an accepted, relevant state agency would be unwise and ensure the ordinance would be subject to legal challenge.” Ms. Farmer said that the Washington State Department of Community Trade and Economic Development, DOE, Report #2 and the tribe letters all support more restrictive buffers.

Peter Downey said in reference to BAS that there are peer reviewed documents that will support very limited buffers as well as very wide buffers. He said that BAS given by legislature is limited in its guidance to them when in reality BAS can support either decision, and so he suggests moving away from the argument about BAS. Mr. Downey said that he hears Mr. Werch’s point that it’s not BAS that’s being called into question with Dr. Brooks’ recommendations; but that it’s the method itself that hasn’t been field tested and tried. He said that there’s a difference between prescribing a ten ft buffer around a wetland for a single family house on five acres, and using buffer averaging around a certain section of the wetland. He said that there’s enough flexibility in the prescriptive approach to provide homeowners with the tools they need to develop their property. He agrees with JD Gallant, that the performance approach allows different development options. Mr. Downey said that the purpose of the prescriptive approach is to provide some reasonable protection of the functions and values of critical areas.

Mike Whittaker said that the word he comes back to is “balance.” He said that in Jefferson County, there are already plenty of hoops to jump through to build a house. He said on the other end is enforcement. Mr. Whittaker said that the bottom line is to protect the environment, and you need to have an ally in the homeowner to do that. If using the recommendations in Report #1, he the said that County would have to step up staff and funds for monitoring. He doesn’t see this requirement in Report #2. Either way, he said it’s important to realize that enforcement is lacking and that we do need a monitoring program. Mr. Whittaker referred to Wetlands in WA State that talk about the four step method in which monitoring is the last step. He also referred to a statement that Ecology’s methods are currently lacking in analysis of wildlife habitat. He said that is imperative to develop allies and assistants in homeowners, and that a cooperative effort is needed to protect the environment.

Bud Schindler questioned why they would institute large buffers if the smaller buffers show no harm. He referred to a Western WA Hearings Board case that in many places stated that reduced buffers are OK if they show no harm. He said that with peer reviewed BAS; we can show that small buffers show no harm.

Ashley Bullitt said that she agrees with Mr. Whittaker’s comments about balance. She said that BAS is not the only value, and that they need to preserve the historical and natural life of the county. Ms. Bullitt said that unfortunately Washington State has a sorted history of engaging in BAS, and gave the example of Hanford. She said that if the buffers are too narrow and not adequate, it will cause property values to plummet everywhere. She said that if the buffers are too narrow, it will discourage stewardship. She said that the prescriptive buffers should be written in a way to encourage

stewardship. Bud Schindler said that devaluation of property can also occur through buffers that are too large, for example, they may make a large part of land “no touch.”

JD Gallant said that every time he wants a well drilled, the Health Department says that he must be 100 feet from sewers, roads, etc. to be sure that the well is safe. He referred to tests being done by the Health Department and DNR regarding septic systems along Hood Canal. Mr. Gallant said that there must be science backing the 100 ft regulation, so there is some science to back their decisions.

Henry Werch commented on responsibility and accountability. He said that Report #1 outlines an impressive monitoring program that he would like to see put in place, yet the ordinances governing the CAO don't require such a program. Mr. Werch said that a monitoring program can only work on a property where the owner allows it and has granted permission to the county. He said that it's clearly outlined in both reports that a program that allows for adaptive management and monitoring is an appropriate step towards what is right. However, he said, that step cannot be voluntary; in order to achieve the goal in Report #1, we must provide the path to allow it to happen. He said that path is one that provides sufficiently wide prescriptive buffers and the alternative to do what the ideological forces behind Report #1 would like them to do. He said that is to lay the groundwork for what is appropriate for a rural community by providing an adaptive management program that is economical and not onerous for the landowner.

Mike Whittaker said that he grew up on the waterfront in Manchester, near Seattle, and in the mid 60's, they decided to sewer the whole area. He said at the time there was no problem with the shellfish and yet, last summer the shellfish on the beach were polluted. He questioned the theory that failed septic tanks caused the pollution. Mr. Whittaker referred to his experience raising cattle within ten feet of a well. He said that he was required to take many tests over the fifteen years he raised cattle and buffalo and he never received a bad report. He said that while the 100 ft protection area may be a good idea, it may be overkill.

Edel Sokol said that she's concerned with a 150 foot no touch buffer. She said that in Report #2, nothing can be done within that buffer, including allowing domestic animals.

Bud Schindler suggested considering the process separately from the buffers sizes. He said when he first spoke he was referring to the process that Dr. Brooks proposed. He said that you can always adjust the buffer sizes. His point is that he favors the flexibility and sensitivity of Dr. Brooks' method. Mr. Schindler said that he has a good example of a rating form and an extension to establish a buffer for a Category III wetland according to Dr. Brooks' formula. He said that he'll provide copies of it for everyone.

Public Comments:

Peter Downey stated that there is no time limit, and requested that everyone please be succinct, summarize their points, and be civil.

Jim Hagen referred to Bud's comment regarding adjusting the multipliers for buffer sizes. He said that Dr. Brooks had also said that the buffer sizes were not set in stone and he'd be willing to adjust them. Mr. Hagen commented on Henry Werch's statement about "ideological forces behind Report #1." He doesn't know where that statement came from. Mr. Hagen said that under the guise of BAS is really the politicization of this process. He said that it began with an email from Mr. Werch expressing concern that this process would become a soapbox of partisan political views. He is concerned about politics being introduced to this process. He referred to something from the Land Trust that characterizes the CAO process as being divided between environmentalists and those interested in property rights. He said that in no way does this represent the report prepared by Dr. Brooks and others. He agrees with Mike Whittaker that "we are all in this together" and Dennis Shultz's comment that "the goal is finding an ordinance that we can all live with, not one we all like." Mr. Hagen said that politics have been detrimental to the process and to successfully protect the environment, they need wide community acceptance of whatever is adopted. He said that so far the PC has suggested stricter buffers than what was presented in the May 17th draft.

Frank Hoffman addressed the County Administrator. He said that the planning commission's request for legal help was a reasonable request, and he found his remarks dismissive. Mr. Hoffman said that he supports the direction of most PC members to accept the DOE buffers as it's the responsible choice. He said that it comes down to credibility. In Mr. Hoffman's opinion, members of the subcommittee are following Dr. Brooks like ducks being led down the garden path. He said that they're not questioning what Dr. Brooks is saying, and if he is wrong, they'll only have Dr. Brooks to blame. He said that the responsible thing to do is to go with the science that DOE recommends.

Norm MacLeod said that as a former board member of the Land Trust, he was taken aback by what they recently put out regarding politics. Mr. MacLeod sent a note to the Land Trust expressing his disappointment with those remarks and the fact that they didn't step up and join the Critical Areas Review Committee. Mr. MacLeod said that he doesn't feel that he's been led down the garden path by Dr. Brooks. He said that Dr. Brooks is highly respected, peer reviewed, experienced and knows what he's talking about. He said that DOE is talking with them not necessarily because they want to, but because they have a tremendous legal exposure with their science. He said that they are promulgating their approach on moderate risk, yet they have never accomplished a risk assessment. Mr. MacLeod said that it is in question also in Island County, where they accepted the NRCS science as BAS. In regards to the stream buffers set a few weeks ago, Mr. MacLeod provided calculations on the acres being removed per stream mile: 25 ft buffer- 6.1 acres/stream mile, 50 ft buffer- 12.1 acres/stream mile, 75 ft buffer- 18.2 acres/stream mile, 100 ft buffer- 24.2 acres/stream mile, 150 ft buffer- 36.4 acres/stream mile, and 200 ft buffer- 48.5 acres/stream mile. He said that in 2002 GEI consultants contracted with the WA Department of Agricultural to work with riparian buffers. He said that they calculated the economic losses associated with a 75 ft buffer on a typical stream to be a land value of \$45,000-\$95,000 per mile, and a loss of county income \$34,000-\$43,000 per stream mile. He said that's what they're doing when they impose a

75 ft buffer on a non-fish bearing stream. He requested that the PC think about the large amount of property that will be affected by these stream buffers.

Kathy Dickson said that she heard on TV that it's not the septic tanks; it was the seals that were the problem in Hood Canal.

Teren MacLeod commented on the question of Dr. Brooks' credibility. She was offended by the idea that they are following him like ducks and spoke about the amount of work he's done for conservation in Jefferson County. In regards to the credibility of BAS, she said they need to question DOE's science rather than the expertise in their own county. She said that there were four members with PhD's on the Majority Committee. She said that DOE contacted Dr. Brooks to look for solutions for buffers in this area because they're aware that their recommendations are not applicable for rural counties. Ms. MacLeod said that it's the PC's job to work with people, the economy, and the environment to find a balance. She said that if you look at what Dr. Brooks has done on his own property as well as for clients, you'd see a good example of an adaptive approach. Ms. MacLeod referred to no touch buffers. She said not only do we have buffers with complete restrictions, but we also have additional buffers for light and noise. She said it's frightening how these things will be interpreted on the ground. She said that they need to embrace education and incentives for landowners, and there should be a requirement to show harm in order to instate these large buffers. Ms. MacLeod said that most people are attracted to the area because of special attributes. She said that large buffers and no touch areas are going to make areas of less value for habitat. She suggested that people be trusted and allowed to use their land within reason.

Scott Clogston said that he's frustrated and confused regarding Teren MacLeod's comment about trusting people. He said that it doesn't matter what the buffer is when there is no enforcement. He said that people don't come here necessarily to be in the wildest, or to do right thing for the environment; people come to do what they want. He said that it would be a giant step forward if the rules that we have in place were only enforced. Mr. Clogston said that he's in favor of larger buffers, but the issue is really about enforcement.

Jim Fritz said that adaptive management would require the people and the County to go broke. He said that we have buffers and water quality information for twenty years. He said that the buffers proposed by Dr. Brooks are wider than the existing ones, so he doesn't see where the risk is. He questioned how no touch buffers could be enforced and asked why people would want to pay taxes on no touch buffers. He said that the land in no touch buffers should be taken off the tax role. He referred to a study done on the septic tanks along Hood Canal that concluded only 3% of the nutrients flowing into Hood Canal are from septic tanks. He said that there's misunderstanding about the source of pollution in Puget Sound. Mr. Fritz said that the three main sources of pollution are automobiles (tire dust, leaks, toxic heavy metals, etc.), pesticide runoff from yards and gardens (mostly in towns), and municipal sewage treatment. He commented that our tertiary sewage treatment doesn't remove pollutants such as makeup, birth control, prescription

drugs, fungicides, etc. He said that it isn't the farmers or landowners that are polluting Puget Sound, so why would we need to propose such large buffers.

Jim Tracy, a member of the citizens committee that gave recommendations to the PC, thanked Peter Downey for requesting legal advice for the PC. He said that now they know where the fault lies in the process, and it will come to rest at the County Commissioners' level. He agreed with JD Gallant, that the PC is not qualified to make scientific decisions. He said that the analogy of the Planning Commission to a jury is false. He said that juries are instructed by judges on what the law is, and the judges develop their instructions from the information submitted by the attorneys, and if the jury doesn't follow the instructions, the judge can set aside their decision. Mr. Tracy said that it's disappointing to hear a PC member state dated and inaccurate information that septic systems are a major cause of pollution in Hood Canal. He encouraged Mr. Gallant to review the studies of qualified agencies that concluded that septic tanks pose very little risk to Hood Canal. He also said that the much polluted areas of Hood Canal are limited to a few specific areas. Mr. Tracy was very offended by the reference to "ideological forces behind Report #1." He said the citizens committee sat through three months of meetings struggling to carefully develop the "fundamental principles," a document that sets out the reasons for the committee's recommendations. He said that many members of the committee are frustrated that they worked so hard to develop recommendations to help the PC and those recommendations are largely being ignored. Mr. Tracy said that he almost burst out laughing upon hearing about the time extension from WEC. He said that the time extension is a perfect example of double standards in the county. He referred to two years ago, when the private applicants' comment period was going to lapse during the holidays. He said that the county commissioners and staff decided that it was inappropriate to be doing major things over the holidays, and extended the comment period way into the spring. He said that what they've done now is extend the deadline to January. He said that he expects that very little will be accomplished between Halloween and the New Year, and that they will be crunched for time and have to request yet another time extension.

PRESCRIPTIVE WETLAND BUFFERS (CONTINUED)

Al Scalf commented on the question of exempt activities in the buffers. He said that the current code allows for a number of uses inside the buffers, including normal maintenance and repair of existing structures, landscaping, lawns, orchards, gardens, driveways... outdoor recreation such as hunting, fishing, bird-watching, hiking, biking, boating, swimming, and existing ongoing agriculture, nature trails, dog-walking, etc. Mr. Scalf said that the format and structure of the current code starts out with exempt activities, then protective standards, then delineation (including the waiver section), erosion control, buffer marking, buffers and standard requirements (prescriptive approach), reducing, increasing, and averaging.

Bill Miller referred to the comment on no touch buffers. He said that nowhere have any touch buffers been proposed. They are proposing buffers allowing for exemptions that

may impinge on parts of the buffers if appropriate. According to his understanding, the buffers are not meant to be unusable.

The PC began deliberating the Exemptions sections in Report #1 and Report #2.

Peter Downey suggested forwarding Report #1 lines 272-349 on exemptions and include line 352 “Wildlife nesting structures.” He said that there’s consensus between the current code and the two reports as to what should be exempt. Al Scalf said that the exemptions in Report #1 are more comprehensive and include more activities than the current code.

JD Gallant said that this language is too broad. Ashley Bullitt expressed concern with construction and recreational use in line 327 “Construction, placement, maintenance and ...” Edel Sokol continued reading from line 327 “provided that the proposed action complies with the requirements of the Shoreline Management Act.” Peter Downey said that it’s limited to maintenance and repair and read “do not involve alteration of or construction through, over or in a regulated wetland.”

Mike Whittaker moved that they send to the code writer Report #1, lines 272-349 on exemptions and line 352 “Wildlife nesting structures.” The motion was seconded by Edel Sokol.

Henry Werch suggested that in the absence of legal opinion, they invite comments from the planning department on this recommendation. Al Scalf said that staff would weigh in when working with the code writer. Mr. Scalf said that they’ll highlight areas of concern with the code writer so that the PC can review those areas when they receive the draft from the code writer.

JD Gallant expressed concern that if they adopt Dr. Brooks’ proposal, he would be uncomfortable with this section. If they adopt the buffers as they exist now, he would accept these exemptions. Mr. Gallant suggested that they deal with buffers before deciding on the exemptions. Peter Downey said that whatever buffers are accepted need to protect the functions and values, and the exemptions should also protect the functions and values of the wetland, regardless of the buffers.

The motion was accepted with eight in favor and one opposed. (8-1-0)

Bill Miller moved that they forward Report #2, lines 908-1078 and the Tables on lines 970-983 to be given to code writer to be incorporated in the CAO. Patricia Farmer seconded the motion.

Ashley Bullitt questioned whether the definitions in the tables would be included. Bill Miller said that the definitions still need to be provided. Peter Downey said that they had agreed by consensus that a house on five acres is considered low impact. Mr. Downey said that they need to give direction as to what low, medium, and high impact is.

Mike Whittaker asked about the meaning of line 916 “Tempering the microclimate within the wetland.” Peter Downey said that that it means shading, or cooling the water.

Mike Whittaker asked what species were being referred to in line 918 “Providing food, shelter, and cover for wildlife species that depend upon use of the wetland for part of their life cycle” He said that it is too general and too restrictive. Henry Werch said that this language is not prescriptive; it is an explanation

Mike Whittaker expressed concern with the word “assumed” in Line 928 “wetland boundary as marked in the field during delineation if required, or as assumed...” He suggested the word “agreed” in place of “assumed”. Henry Werch said that in this context “assumed” means “drawn from, determined by or derived by.” Peter Downey said that it is broad, but this wording allows the staff the ability to not require wetland delineation. Donna Frosthalm confirmed that this wording allows staff to assume the edge of a wetland without delineation.

Ms. Frosthalm suggested the wording “based on” in place of “as assumed from.” This was accepted as a friendly amendment.

Edel Sokol expressed concern with lines 936-937. She said it sounds to her like bigger buffers or vegetation of areas that was cleared possibly hundreds of years ago. JD Gallant said that the key word here is “may require” and allows another tool for the Administrator. Henry Werch said that it gets more prescriptive beginning on line 1062 that deals with buffer increases. Donna Frosthalm said that in twenty years she has never increased a buffer; this language is included in the code just in case. Peter Downey asked staff to refer this to legal advice to determine if they need language to increase buffers in the ordinance.

Bud Schindler noted that they’re supposed to protect against further loss of wetland functions and values. He said that doesn’t mean they need to go back and retrofit.

Mike Whittaker said that the language in line 939 “barrier against disturbance to wildlife ...” is again too broad and general. Henry Werch said that the prescriptive part of the ordinance does require that the species be required. Mr. Werch said that this section provides the basis for why.

Mike Whittaker referred to line 941 “when a buffer is on a slope steeper than forty percent and/or lacks adequately dense and diverse vegetation (e.g. is mowed or grazed), the Administrator may require the buffer to be larger...” Mr. Whittaker asked if he would have to have a larger buffer just because his animals were grazing on the land. Henry Werch said the intent here is if what is there doesn’t perform sufficiently as a buffer, they may wish to enlarge the buffer. Peter Downey said that line 1069 talks about this more specifically.

Mike Whittaker referred to page 25 and expressed concern that there is no differentiation in buffer width between Category I and II. He said if there’s a differentiation in

categories, there should be a differentiation in buffer width. Bill Miller said that these buffer widths are based on very high habitat scores. Mr. Whittaker said that the Whatcom County Ordinance suggests buffers of 275, 150, and 100 for Category II, opposed to 300, 225, and 150 proposed here. Mr. Whittaker said that Whatcom County recommends buffers of 50, 40 and 25 for Category IV and here, there is not even a Category IV listed. Peter Downey said that Category IV is not listed here because it wouldn't have a high habitat value.

In regards to Mike Whittaker's concern that Section A is too broad and general, Ashley Bullitt said that Section A is not regulatory, but provides the purpose and intent of the regulation. Al Scalf said that Section A begins to focus the Administrator and staff on how to apply the following regulations and becomes increasing more specific.

Edel Sokol expressed concern with line 921 "Disruptive intrusions by humans and domestic animals." It was agreed that this language is still part of the overview and explanation. Peter suggested removing that part of the sentence from line 921. JD Gallant said that the language should be included; part of the reason we have a buffer is to exclude disruptive cows, horses, and humans from wetlands, as determined by the DCD guidelines. Bud Schindler asked if they are suggesting exclusion from the wetland, the buffer, or both. It was agreed that they're talking about exclusion from both the wetland and buffer. Ashley Bullitt referred to public comments that it's important that people agree with the code in order to adhere to it. Ms. Bullitt said that the general explanations allow the public to understand the reasoning behind the regulations. Bill Miller did not accept the suggestion to remove the language "Disruptive intrusions by humans and domestic animals" from line 921.

Bud Schindler proposed a friendly amendment to edit the language in line 910 to read "protect its functions **and values.**" The friendly amendment was accepted.

Bud Schindler referred to line 910 "the impacts of adjacent land use". He questioned whether this refers to any adjacent land, parcels or neighbor's land. Henry Werch said that at this broad view, we only see the wetland, its function, and the surrounding area, not property lines. Mr. Werch said that as the ordinance progresses, they start to look at property lines. Al Scalf said that this language is regulatory; they look to this as a means of enforcing the code.

Peter Downey suggested a friendly amendment to remove "well-traveled road" from line 933 and replace it with "any road." The friendly amendment accepted.

Bud referred to line 933- "The determination of functional isolation must take into account the use of the buffer by wildlife for access to the wetland." He said that wildlife is adaptable and may be able to find other access to the wetland. Henry Werch said that's exactly the meaning that he's reading here "buffers need not include areas that are functionally isolated..." Peter Downey said that he's reading the exact opposite. There was confusion about the meaning of this sentence. Joel Peterson suggested that there be a sentence preceding this one describing functional isolation that should take into account

that wildlife may still be using this area as access. Peter Downey said that wildlife habitat is not only a function of wetland, but also of water quality, etc. Mr. Downey suggested letting the code writer listen to the tape to distinguish what they want to say here.

Edel Sokol referred to lines 966-967 “score of 20 point or more.” She asked who scores and who decides. Peter Downey said that they already decided by consensus to adopt the 2004 DOE wetland rating system.

Bud Schindler referred to line 939 “the effectiveness of buffer vegetation as a screen or barrier against disturbance to wildlife, and for treatment of storm water runoff...” He said this sounds like part of the building code and asked why it is included in the CAO. Henry suggested sending recommendations from Report #1, lines 1198-1208 on increased buffer widths to the code writer as it may be a simpler statement. Peter Downey said that they already asked for staff to look into whether or not to include language on increased buffer widths.

Bill Miller proposed an amendment to his motion to replace the information in the tables on lines 970-983 with the information in the tables from Western WA Guidance, Volume II, Tables 8C-4, 8C-5, 8C-6, and 8C-7.

Bill Miller said that these tables determine the habitat score by involving three functions: hydrologic function, water quality and habitat score. The buffer widths are then determined by the score. Mr. Miller said that the tables from Report #2 roughly tell the habitat score in text form, where the tables from Western WA Guidance provide more in-depth scoring. Henry Werch asked if these tables only apply to wetlands that score 29 points or more. Mr. Miller responded that Table 8C-4 provides for wetlands that score less than 30 points total. Mr. Miller said that the first table in Report #2, Table D.1. Correlates to Table 8C-7. Peter Downey said that essentially all of these buffers are lower than what is in Report #1. Mr. Miller agreed that they are lower. Al Scalf said that in the current code, Category III low impact use prescribes a 50 ft buffer whereas this table prescribes a 40-75 ft buffer. In Table 8C-4, Category IV low impact use prescribes a 25 ft buffer. Mr. Miller said that he is asking that the code writer incorporate the information from Western WA Guidance tables into the tables in Report #2, lines 970-983.

Patricia Farmer said that she seconds the motion with inclusion of Bill Miller’s friendly amendment. There was consensus on the amendments proposed so far.

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

Edel Sokol questioned line 1078 “Protect a wetland from landslides, erosion or other hazards.” Peter Downey said that this is included in their request for advice on increased buffers.

Peter Downey said that next week they will get into the performance approach. Joel Peterson said that he will bring any new information developed by the Stewardship group. Mr. Downey said that they will take any information they receive, but the PC won't hold up their process to wait for the group's recommendations.

JD Gallant questioned if the PC had completed their deliberation on the prescriptive approach. Mr. Gallant said that they hadn't yet addressed anything past line 1078. Henry Werch said that this information would be better addressed as part of the performance approach. Mr. Downey said that they may have missed some things that relate to both approaches and next week they will start with the performance approach and deal with whatever had been missed. Mr. Gallant expressed concern that they weren't fully deliberating the information that was provided by Dr. Brook's group before moving onto the performance approach. It was suggested that they provide a framework into which additional information developed by the Stewardship group could be incorporated in the future. Bill Miller referred to Report #1, line 873 and line 1312. He said that there's information on habitat management plans, mitigation, and watershed monitoring that could provide a skeletal framework to be built upon later.

Mike Whittaker said he's concerned with the illusions to blindly following Dr. Brooks, and putting your faith in the state agencies. He referred to last year, when DOE didn't have the science to back in stream flow, but they tried to sell the idea anyway. His perspective is that he doesn't trust DOE. Mr. Whittaker expressed confusion with a statement from the tribes that they had been participating in the Jefferson County CAO process for some time now. Al Scalf said that the tribes were represented many times at the meetings. Mr. Whittaker referred to another statement in a letter from the tribes saying that forest land is rapidly being converted to residential. Mr. Whittaker questioned the source of this statement. Peter Downey said that in public comment, anyone can say anything they want, whether or not it's factual.

Edel Sokol referred to an article in the newspaper on spotted owls. Ms. Sokol said that the article infers that the government knew the program didn't work but they were ok with that, even though thousands of people were impacted. She said that we had better be careful when referring to DOE.

John Richmond announced an invitation to East County residents, DCD staff, the Planning Commission and their families to attend a potlatch held by the Hoh River Residents Association on August 18th. He said that more information will be emailed to them.

Mike Whittaker referred to a legislative report regarding research to create jobs and innovation partnerships locally. He said that there is grant money available.

C. ADJOURNMENT

The meeting was adjourned at 9:45 pm.

D. APPROVAL OF MINUTES

These minutes were approved this _____ day of September, 2007.

Peter Downey, Chair

Angela Wade, Secretary