



JEFFERSON COUNTY

PLANNING COMMISSION

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JEFFERSON COUNTY PLANNING COMMISSION

MINUTES FOR DECEMBER 12, 2007

- A. OPENING BUSINESS**
- B. CONTINUE DELIBERATIONS ON THE DRAFT CRITICAL AREAS ORDINANCE**
- C. ADJOURNMENT**

A. OPENING BUSINESS

The meeting was called to order at the WSU Learning Center, Spruce Room, Port Hadlock WA at 6:30 p.m. by Chairman, Peter Downey.

ROLL CALL: Peter Downey, Patricia Farmer, Mike Whittaker, JD Gallant, Ashley Bullitt, Henry Werch, Bill Miller, Bud Schindler. Edel Sokol excused.

DCD staff present: Al Scalf and Joel Peterson.

There were approximately 10 members of the public present. Those that signed the guest list were: James Fritz, Norman MacLeod, Jim Storey, Jim Hagen, Diane Johnson, Ross Goodwin and Mike McFadden.

STAFF REPORTS:

Al Scalf reported on a Growth Management Hearings Board (GMHB) compliance hearing scheduled for December 17th on the UGA/ ICAN appeal. A decision from the Hearings Board could be within 40-60 days informing the County if we are in compliance or not.

Mr. Scalf reported that another citizen has filed a Petition for Review with the GMHB over the Interim Control on prohibition of mini-storages and development.

Mr. Scalf reported that the BoCC extended the decision date for the 2007 Comp Plan Amendment cycle to January 14, 2008. A workshop with the BoCC is also scheduled for January 7, 2008 on the Comp Plan Amendments before the final decision date.

Mr. Scalf reported that Mochi Lindbaugh who has worked six years in the Development Review Division as an associate planner is leaving and taking a senior position with Klickitat County.

COMMITTEE REPORTS:

Commissioner Miller reported on the SMP and the first draft. He stated the consultant will include comments and a new draft will be coming out next year.

B. CONTINUE DELIBERATIONS ON THE DRAFT CRITICAL AREAS ORDINANCE:

The following suggested changes were accepted by consensus:

- 18.22.070 (16) Policy:
Grant the Administrator the flexibility to determine whether (an activity) is an intrusion into the critical area (using criteria of similar activity). The Administrator is authorized to determine, using criteria of similar activity, whether a use is exempt or not.
- 18.22.200-Classification/designation:
(1) Fish and wildlife habitat conservation areas (FWHCA's). PC did not make any changes to this Article from the last discussion they had about it according to Chair Downey.
- 18.22.300- Protection standards:
(i) Single-Family Residences. The requirement for a wetland delineation and special report may be waived by the administrator for construction of a single-family residence on an existing lot of record if DCD staff or a qualified wetland evaluator determines:
- 18.22.330:
(3) (6) Reducing Buffer Widths. Add (e) buffer area reductions shall be minimized to accommodate only those structures and purtences as approved by the Administrator.
(d) Take out: adjacent land-uses and add structures and purtences.
- 18.22.360-Waivers:
Change to combine 18.22.360 through 18.22.390 into 18.22.370-Waivers. Under 18.22.390 (1) added "not more than forty-two calendar days".
- 18.22.380-Retaining consultants:
Change to: Jefferson County may retain consultants to assist in the review of special reports.

- Add Article 11 - Adaptive Management. Add new Title 18.22.650
- 18.22.470-
Add (11) supported with photo documentation.
- 18.22.490-Maintenance:
Change to: some critical areas stewardship plans (CASPS) may require periodic maintenance activities. These plans shall include a maintenance schedule detailing these activities. In general, plans that do not require long term maintenance are preferred to plans that require verified periodic maintenance to be verified by County staff.
- 18.22.500-Performance standards:
Move under 18.22.460 and change to 18.22.465.
- 18.22.520-Periodic monitoring:
Change to: Critical area stewardship plans (CASPs) shall be monitored and reports submitted as prescribed by the approving authority. Monitoring reports shall be submitted to the Department of Community Development, and shall include the following:
(4) Change to: When analysis of monitoring results describes a deficiency in meeting the CASPs goals, adaptive management shall be employed to rectify the deficiency.
- 18.22.500-Time Frame(e):
Change last sentence to: Performance standards should be appropriate for the monitoring period.
- 18.22.480- Description of the management proposal:
Underneath (5) and before (a) change to: This plan should include:
5(e) Change to: Short term protections methods such as protective tubes, socks...

Al Scalf commented that next Monday, December 10th, an agenda request is before the BoCC to make a motion to direct the County's attorney to contact Washington Environmental Council (WEC) and the GMHB for an additional sixty days for the BoCC to review the draft CAO.

PUBLIC COMMENT:

Jim Hagen expressed his concern on the request to the BoCC for an additional sixty day review of the CAO. How will this affect the Planning Commission schedule, the minority report and the findings of fact and recommendations. He also commented on the Stewardship Plan, wetland protection and Ecology.

Norm MacLeod commented on the CAO, the GMA and WAC's and Island County's HB rulings due to very substantive findings of fact.

James Fritz expressed his observations about the average landowner trying to understand the draft CAO. He commented that the assessed value of Jefferson County is 4.7 billion and ten years ago it was 2.19 billion and his concern for the average person trying to buy a home or land in Jefferson County.

CONTINUATION: DELIBERATIONS OF DRAFT CRITICAL AREAS ORDINANCE:

Chair Downey concluded that the code language is in good form and requested that the PC submit their findings and conclusions.

FINDINGS AND CONCLUSIONS:

Commissioner Werch discussed the need to enter findings, consider the GMI's, the WEC Settlement Agreement, examine what activities in the County have changed since 1998, review Senate HB 5248, consider growth patterns in the County.

Chair Downey discussed the roll of scientific information, field studies, and available science.

Commissioner Schindler stated that the County is growing slower than expected, that the conservation district has a new role in land use. The County is implementing a new urban growth area in Port Hadlock and that the Senate HB 5248 affects agricultural activities.

Discussion continued on public response to the May 17th draft of the CAO and that new court cases have come out since the May 17th draft including the Swinomish vs. Skagit County court case. An important case in Island County

and the County has been working with the Dept. of Ecology to create a flexible option to prescription standards called rural stewardship planning. This would include monitoring and adaptive management.

Commissioner Werch stated that the PC has begun looking at alternative approaches and however ecology volumes on wetland science are included as BAS. He called attention to the vision statement in the comprehensive plan.

Commissioner Schindler called attention to the population of the County; the land uses available, housing patterns and the role of economic development. He reinforced the new court decisions on land use issues.

Chair Downey indicated new science becomes available frequently and that the PC is concerned about the widely held values of the citizens. He further stated there is a big gap between protection of the environment and government intrusion. He was concerned about the government being in people's pockets and the perception that the government gets in their face. The PC experienced this at public hearings where a lot of people were screaming. He indicated that the PC had responded by providing a Path A; prescriptive standard and a Path B; flexible standard called the CASP approach. He indicated this was a radical and innovative approach created through the PC process.

Commissioner Werch stated these values were held in common by "both sides" and that everyone supported these common values to protect the environment and to allow property use.

Chair Downey stated the question is "how do you go about doing this?"

Commissioner Schindler indicated the critical area buffers were over protective. He said we are not winning over everyone. We need more reasonable buffers and that this would provide for more environmental protection because there would be less defiance.

Commissioner Werch stated that from the beginning Dr. Brooks, Jill Silver and Amy Hiatt showed that buffers couldn't be customized and bigger buffers were generally a fail safe position.

Chair Downey stated that winning people's hearts isn't what the CAO is about.

Commissioner Gallant stated that many citizens feel this draft CAO is barely adequate.

Chair Downey indicated that in view of this polarization, the prescriptive and CASP opportunities will get us there.

Commissioner Miller followed that the current draft will allow for exceptions in certain circumstances, provide flexibility and provide reductions in some instances. He said we are trying to get something in this code for everyone and to subscribe to Senate HB 5248.

Commissioner Schindler stated the draft Planning Commission CAO is overdone and needs to be more reasonable and that this is just like the May 17th draft.

Chair Downey stated one of the main differences from the May 17th draft is that this version has the CASP and that the waiver was re-examined and we don't have the 450' waiver.

Commissioner Bullitt stated that people on the street are glad that the PC is trying to protect and they are conservative and that the recent flood experiences in Lewis County resulted in a lot of property damage which equates to "incautious planning".

Chair Downey indicated that the draft CAO added new code requirements for CMZ's in the high risk zones. The tribes requested protection of CMZ's and a limitation of shoreline armoring. Overall, we need to protect the public and the environment and that the CMZ regulations in the landslide hazard section because it is concern for public safety. He further stated the channels will move and this will have a cost and potential environmental degradation.

WETLANDS:

Chair Downey discussed the dual rating system for wetlands and he supported a dual rating system similar to the recommendations of Dr. Brooks. However, he was aware of the concerns of Andy McMillan from Ecology and specifically the wetlands would be protected under a dual ratings system. He drew an example on the board for the

PC to view.

Chair Downey further indicated that most Jefferson County wetlands are category III and IV's and that we don't want to be too onerous. He indicated areas such as Chimacum valley as growing slower than anticipated and some areas may not be growing because of too many regulations.

MORE CAO DISCUSSION:

Commissioner Werch indicated some assumptions have changed and are no longer valid. For example, the prescriptive method being the only approach has changed. Recent court cases have clarified some land use issues. See: Swinomish, Island County, HB 5248, and Viking Homes. County wide attitudes include concern the community is polarized and perhaps this is representative of the WEC appeal which led to the Settlement Agreement and has had some positive outcomes such as the Chimacum Ag plan, exemptions for existing and ongoing agricultural activities, and a Governor's award.

Commissioner Farmer re-emphasized the Swinomish decision and the role of monitoring and adaptive management techniques.

Chair Downey indicated that DOE science is best available and that the CASP would provide for protection in that it must show that it is equal or better than the prescriptive standards.

Commissioner Werch indicated that BAS may have a wide variety of science and that since 1998 some science has been affirmed, some challenged and that Dr. Brooks called a lot of the science into question and that Ecology responded that this is a good public process which leads to minimum buffers had come out, maximum buffers had come out and a suitable compromise was created. He further stated he could find not specific paper that stated that this is the required buffer, but could find the range for buffers and that the PC looked at the evidence, ranges and balanced the science over the last year and a half.

Commissioner Schindler stated that Dr. Brook's science does not support this CAO version. That the PC did not negotiate and he disagrees with the buffers.

Chair Downey indicated science is dogma and that some reports on tobacco and cancer may indicate it might be good for you.

Commissioner Farmer stated she considered a wide range of literature. That global warning is an issue and we should do nothing to cause harm.

Commissioner Schindler further stated that the buffers were overdone and that the defiance factor created a social issue.

The PC brought up the motion from Commissioner Whittaker from the previous PC meeting. The motion was to table the CAO until next year, seconded by Commissioner Sokol and after discussion that motion failed (6-2-0).

Commissioner Miller moved to forward the draft CAO with findings and conclusions to the Board of County Commissioners, seconded by Commissioner Werch. Motion passed (6-2-0).

The Planning Commission agreed that the staff could review the format and make clerical changes as needed.

C. ADJOURNMENT:

The meeting was adjourned at 9:30 p.m.

These minutes were approved this ____ day of January, 2008.

Peter Downey, Chair

Jeanie Orr, Secretary