

**ISLAND COUNTY PLANNING COMMISSION
SUMMARY MINUTES
COMMISSIONERS HEARING ROOM, COUPEVILLE, WA
TUESDAY DECEMBER 18, 2007**

	<i>Members Present</i>	<i>Members Absent</i>
<i>District 1</i>	<i>Val Hillers</i>	
	<i>Ray Gabelein</i>	
	<i>Mike Joselyn</i>	
<i>District 2</i>	<i>Sheilah Crider</i>	
		<i>Bill Massey</i>
	<i>Alan Schell</i>	
<i>District 3</i>	<i>Wayne Havens</i>	
	<i>Deb Eidsness</i>	
	<i>Scott Yonkman</i>	

Continuation of the December 13, 2007 deliberations on the wetland draft ordinance.

ROLL CALL

Ray Gabelein, Mike Joselyn, Alan Schell, Val Hillers, Sheilah Crider, Scott Yonkman, Deb Eidsness and Wayne Havens

Keith Dearborn advised the Planning Commission of the new documents before them. He asked the Planning Commission to consider going into Executive Session for about a half hour.

The Rural Stewardship Plan

Jeff Tate, Planning Director discussed the changes to the guide. He explained staff has tried to have the concepts discussed by the Planning Commission at the last meeting reflected in the guides. The changes to both documents do not constitute a significant change in content, as much as it does reorganization and clarification to make sure it tracks properly and make sense and flows right.

Jan Smith discussed the Rural Stewardship Plan; the changes were done to make it easier for the public to understand. The highlighted changes were discussed; wording was cleaned up, the acronym RSP was added since the acronym shows later in this document referencing the guide.

The word residential was added to show the Rural Stewardship Plan is pertinent to single family residential property owners. Some wording was cleaned up to make it flow a little more smoothly, it is fairly clear in both the Code and as well as other portions of the guide that this is a voluntary program, an option that land owners can utilize.

Commissioner Schell asked if it was really possible to go from high intensity to low intensity as it shows on tier two.

Jeff Tate explained that particular question has recently been discussed by staff and although the concept appeared workable in reality the possibility seems very unlikely.

Mr. Tate provided a summary that indicated you can only move one level not two; it is one of the final corrections that would need to be made. What the Department would propose is to remove the two tier reference.

- Motion to remove the two tier system in the Rural Stewardship Plan, would be an action the Planning Commission would like to request at the end of the review of this document.

Jan Smith continued to go over the clarification of language changes in the document.

- Alan Schell asked if on page 3, the 1,800 sq. ft. reference was to the footprint or the total square feet of the home and asked that it be clarified in the guide.

It was indicated by staff that it did refer to the footprint of the building.

- Also on the map on page 4, the same reference should be made. It was asked if the basic map layout could be done as well.

Chair Hillers asked why pages 3 & 4 were reversed. She felt it makes it more confusing.

Ms. Smith replied the map on page 3 is the natural resource map, which needs to be done first to allow for the design of where you put the house, in reference to where the natural features are. The map on page 4 is the goals for activities on your property, the development.

- A suggestion was made to take the home and pasture out of the resource map and add that to the other map and clarify with a title on the map.

Further discussion was made regarding the changes, page by page all for purposes of clarification, correction of verbiage.

Page 8 will have significant changes when the two tier system is removed.

Commissioner Schell wanted to know if there is any indication of the full length of time that will be needed to complete this process. He asked if there shouldn't be a reference on the website that outlines all of what is involved in the process and how long it will take. Shouldn't it be mentioned somewhere that perhaps a person should go to the website and pull up this ordinance, exhibit G to fully understand the entire process.

Mr. Dearborn responded there are two things involved; one is the adoption of the Rural Stewardship Plan and the second is getting the tax break and they go in sequence. They do not happen at the same time. Not everyone will be working to get a tax break; many will be trying to reduce the intensity of the land development. The approval of the Plan is

provided for in terms of process in the New CAO, it is treated as a Type I Decision. It is a defined process in the Code that has timelines that sets the timeframe for approval of the plan. An applicant must decide whether they are trying for a tax break or a reduction in land intensity.

- Commissioner Schell stated he thinks it should be better spelled out so that a person can understand that.
- Scott Yonkman referenced page 2 of the application portion, item 6, that asks “Have you observed any of the following species on or near your property: Blue Heron, Common Loon, Osprey, Pileated Woodpecker, Trumpeter Swan, Bald Eagle, Peregrine Falcon, Northern Sea Lion, Gray Whale, Marbled Murrelet” suggested there be a reference made to a resource or document to show what some of these critters look like.
- A suggestion was also made to have links on the website to other established reference guides.
- Scott Yonkman also suggested on page 4, section 3 under Land Use, Intensity & Clearing that there should be some reference to utilities. Sometimes underground trenching for power lines and water lines come from different directions; they don’t always come in the main driveway, if you have to cross a wetland it would be an issue.
- It was suggested that it be added to this section under a separate question.

Commissioner Havens asked why the Grey Whale was included in the list under item 6. He wanted to know what kind of an impact that whale would have on your property going by a mile out in the sound.

Keith Dearborn replied that it is currently listed as a protected species in the Old CAO, so they reproduced that same list.

Mr. Tate stated that since it is listed as a species that is protected that it be acknowledged on an application. It is included here for consistency.

Chair Hillers asked about the removal of the tier reference and how it was to be accomplished.

Mr. Tate responded that it would be restructured so there is no tier reference, making it clear that you could be able to shift a level of intensity by doing certain practices as specified in the Rural Stewardship Plan.

Chair Hillers stated there were two things to address, adding utilities on the application and removing information about tiers. She asked if there were other modifications.

Commissioner Schell suggested the reference to the website for additional information on the process.

Commissioner Crider moved to make the amendments or changes as stipulated in the documents before the Commission, dated 12/18/07 9:30 edition to the Guide to Preparing a Rural Stewardship Plan, to delete any references to tiers, to also create a reference to the website for species identification and for the utility plan that would become a separate item noticed in the application form and incorporate all the changes provided to us in this document today.

Chair Hillers stated there was another item that Commissioner Schell had asked to add.

Commissioner Schell stated he had asked that somewhere in the booklet please reference to the Island County Web site for both a copy of exhibit G of the ordinance and the Island County Public Benefit Rating System and where they could find the application.

Commission Crider also moved to incorporate into the motion the items mentions by Commissioner Schell referencing the website reference to the two documents; the proper way of implementing the guide and exhibit G. Commissioner Yonkman seconded the motion. The motion carried unanimously.

Mr. Dearborn stated the Planning Commission would receive a composite ordinance and the final guides so that the Commission would be able to make sure all their changes appear before it is transmitted to the BOICC. He stated the documents would be provided before they complete their transmittal letter.

Wetland ID Guide

Jeff Tate discussed the three worksheets and how they will be used. The Wetland ID Guides' first twenty pages show how to identify a wetland on their property; then there are the three worksheets: The Field Indicators Worksheet, An Intensity Worksheet and a Buffer Worksheet. The Wetland ID Guide can be used by all, it doesn't matter what type of land use you have on your property it can be useful to everybody relating to the first twenty pages.

Then the worksheets come into play. The property owner retains the right to hire someone if they choose or they can use the guide. This first worksheet would be turned in with every land use development proposal to help staff determine if there is a wetland or not. This is early identification, an early warning for land owners and for staff to understand whether or not there is a wetland on a piece of property. Ultimately the Department staff would make the determination after visiting the property.

If there is a wetland on a piece of property and you are a residential owner, then the Intensity Worksheet and the Buffer Worksheet filled out by the landowner will be required with the application and verified by County staff. All three of these worksheets were developed with the single family residential landowner in mind.

Wetland Reports prepared by a wetland professional would be required for other types of development with an affirmative determination of a wetland on the property. The wetland professional can provide these forms in the same format or they can choose to incorporate the same information into the Wetland Report. All application will be coming in with the same information. Staff will then determine if it has been done properly.

Commissioner Schell asked how it could be made more user-friendly to include any property trying to identify a wetland, whether or not they are considering building.

- Mr. Tate responded that including a statement that the Guide can be used for determinations that aren't related to development proposals would help to make it clear that there will be another element beyond this document that will allow for staff to make a determination on those properties.

Commissioner Crider stated that if parcel A has a protected wetland and the Buffer extends onto parcel B, somewhere it needs to be noted or disclosed on parcel B. A signed notification is the most accurate way of disclosing that.

Mr. Dearborn stated this is an issue that does need to be figured out. It may be as simple as a form that the County uses when they record.

Jan Smith highlighted the main changes to the Wetland Guide.

- Page 8 will indicate on the map that the square ft referenced on the map is referring to the footprint of the building.

Commissioner Crider questioned how often Red Stemmed Dogwood is found naturally occurring, stated she had not seen it on Central and North Whidbey.

Dr. Paul Adamus stated he would check the field data with the 100 checked wetlands to see how often they naturally occurred.

Discussion continued with the following requested changes or additions:

- Carry forward the box for the Native Plants to be the same as the box that is used on the pages with Non-Native Vegetation.
- The addition of "or wetland buffer" needs to be added behind the word wetland in both of the first two paragraphs on the STOP Continue only if page, in order to be clear.
- Chair Hillers asked if there should be the language "from the edge of the wetland buffer" added to the end of the first bullet under item # 3. Structures, patios and decks shall be setback fifteen 15 feet on page LUIW:2

- Commissioner Schell stated the listing order of the wetland types should be kept the same on page WBW2; it should be changed to match what is in the table. Also to change the ending of the bold italicized statement to say, please continue to remaining questions.

Regarding page WBW: 7, Mr. Dearborn stated Dr. Adamus decided the wetland outlet has been removed from the habitat scoring system because it is not strictly a habitat question, it is a sensitivity question. It was moved into this table, using it as we do for water quality. It was felt it was better to take it out of the habitat checklist, realizing it was not habitat, but it was an important characteristic to consider. The science behind it is that if you have a closed basin, no outlet, you have no delusion and you're going to have contamination, therefore you're going to want to be more protective and have a larger buffer. This is not a change in substance but simply moving it from one area to another within the worksheet.

Adjustments were also made to the buffers, when you do have an outlet the buffers became smaller.

This will help a person understand the importance of an outlet.

Jan Smith continued outlining the minor changes.

Commissioner Schell suggested on page WBW:9 to change the last paragraph on the page to read: *If the wetland and/or buffer size leaves no room for the use of the property, there are options available to make sure the wetland can be protected and still make you land usable for its' zoned activity.* If this is your situation please contact the Island County Critical Areas Planner to discuss your options.

Commissioner Crider suggested protected or mitigated.

- The following was decided:
If the wetland and/or buffer size leaves no room for the use of the property, there are options available to make sure the wetland can be protected and still make your land usable for uses allowed under the zoning code. If this is your situation pleas contact the Island County Critical Areas Planner to discuss your options.
- Chair Hillers suggested: on Table two bolding the habitat scores.

Commissioner Schell move to accept the Wetland Identification Guide of 12/18/07, 10:25 edition, with the addition of verbiage in the last paragraph, Commissioner Joselyn seconded.

Commissioner Crider moved to amend to include the suggested change by Chair Hillers, Commissioner Joselyn seconded. Commissioner Crider stated this included the minor edits as discussed and that was understood in the motion maker's original motion. Commissioner Schell confirmed this. Both motions were carried unanimously.

Discussion moved to the ordinance, as revised 12/18/07

Keith Dearborn outlined the changes to the ordinance to reflect changes requested by the Planning Commission.

On page C-4, a definition of Administrative Determinations and subsequently there has been added a provision under review process that provides for an appeal of these Administrative Determinations.

C-21 is the reference to the administrative decisions, C-29 addresses monitoring, clarifies as requested by Commissioner Yonkman.

C-33 & C-34 Wetlands Identification Guide, changes made to make it consistent.

C-37 addresses how the various check lists will be used.

Chair Hillers asked if the same terminology was used in the Wetland Buffer Worksheets.

Mr. Dearborn advised it was.

C-39 shows an easier to read version of table two in the Wetland ID Guide.

Commissioner Crider asked if C-38 was referring to the Mature Forested Wetlands.

Mr. Dearborn stated it is referring to wetlands under 1,000 sq. ft., amendment # 8; the 15 ft. setback for the small 15 ft. buffers situation.

C-41 suggested change of a water quality buffer; that you apply the water quality buffer to the contributing area but not in the non-contributing area, so it is suggested to go back to the 20 ft. as was used in the workshop version. In a wetland that is not a high habitat wetland you are dealing with water quality buffers, on the contributing area of the wetland, a water quality buffer would apply, then on the non-contributing area the buffer would be a fixed 20 feet.

Discussion moved to the findings in Exhibit J

Added language to round out the legislative intent and the process that got us to where we are today.

Chair Hillers asked to review findings and possibly make changes via email

Discussion moved back to the Ordinance

- *Commissioner Gabelein would like to revisit #10 the Mature Forested Wetland definition, C-11 in the ordinance; looking at It, the threshold size was left out. He*

would like to move adding one acre or larger in size for the wetland and make the tree size 18 inches in diameter. Commissioner Joselyn seconded, motion carried unanimously.

Commissioner Gabelein would like to revisit # 5, C-24; stated there was concern that a parcel could have grown up and have larger trees and would still be allowed to qualify as historic agriculture land, stated he would like to differentiate between a large forested parcel being protected without being called historical agricultural land.

Jeff Tate stated in The Clearing and Grading Ordinance, there is a section that says a Clearing and Grading Permit is required whenever: and then there is a list of activities. One of those listed activities is whenever there is work within a Critical Area or Buffer another is whenever there is a Class Four Forest Practice Permit required. Chapter 76.09 regulates forest practices and uses the term conversion, not commercial forest but just forest land to something else. Perhaps the addition at the end of the sentence, “Agricultural Activities takes place on land that has been used historically for Agricultural Activities” should end with, and does not constitute a conversion of land uses defined in 76.09 This would create a threshold that it can’t be a conversion of land use from forest back to agriculture.

- C-24 item F, the second sentence that begins with New Agricultural Activities that are allowed under the Zoning Code, Chapter 17.03 ICC, may also comply voluntarily with the requirements of this subsection when the Agricultural Activity takes place on land that has been used historically for Agricultural Activities and does not constitute a conversion of land use defined in 76.09 RCW. Otherwise, Agricultural Activities shall continue to comply with the Old Critical Areas Ordinance, Chapter 17.02 ICC.

Commissioner Gabelein moved to amend the composite ordinance with the language stated. Commissioner Crider seconded, motion carried.

Commissioner Schell would like to revisit amendment # 12, page 53, C-25; - concerned that we are exempting actions that would allow someone to use this to do something they shouldn’t and blame it on this exemption. He stated he would like to entertain using something from page 69, on emergency actions and add to this section. Add a sentence at the end that states review procedures established by the department. Management of stormwater shall be conducted consistent with ICC 17.02A.040.A5 and must be reviewed prior to work.

- The last sentence would be: Operation and Maintenance Activity shall be conducted consistent with ICC17.02A.040.A.5 and for stormwater management activities with review procedures established by the Department.

Commissioner Crider moved so, Commissioner Eidsness seconded, motion carried unanimously.

Discussion moved to Land Use Intensity regarding the removal of tiers.

Mr. Tate stated under C-36, Section 5, subsection a, b and c: the suggested change would be to strike a, b and c altogether and under section 5 he would make one simple amendment to read:

- Any new use or structure classified as medium or high intensity may be (strike classify in a lower), and replace with lowered by one intensity classification and take out (as follows).

Commissioner Crider moved as suggested, Commissioner Yonkman seconded, motion carried unanimously.

Commissioner Gabelein stated on C-35, land uses intensity, wants it stated for the record that he believes it is a flaw in the ordinance in his opinion the proportionality issue needs work.

Commissioner Crider points out the Commission has exceeded their time in this room and stated this may be re-evaluated as time needs. Commissioner Crider stated she would like to move to deal with the findings by email directly to Madam Chair, staff and Mr. Dearborn and Dr. Adamus.

Mr. Dearborn stated the issue of the 4.5 acres that Commissioner Gabelein finds troubling could be addressed in the transmittal letter.

Commissioner Yonkman stated he would like to go on the record as supporting Commissioner Gabelein and Commissioner Crider on this issue.

Commissioner Eidsness moved to adopt the composite ordinance with the amendments discussed in the text of the ordinance and the Rural Stewardship Plan and Wetland Identification Guide. Commissioner Crider seconded, motion carried unanimously.

Commissioner Crider moved to communicate directly with Madam Chair cc: Mr. Tate, Mr. Dearborn and Dr. Adamus regarding findings and allow the Chair to incorporate the language the Commission provides to the Chair and make changes and sign the transmittal letter to the Board of County Commissioners without coming back and reconvening. Commissioner Yonkman seconded motion carried unanimously.

Commissioner Havens moved to adjourn Commissioner Crider seconded, motion carried unanimously.

*The meeting adjourned at 3:22 p.m.
Respectfully submitted*

*Paula Bradshaw
Administrative Assistant*