

**PLANNING COMMISSION
CAMANO CHAPEL, 867 S WEST CAMANO DR., CAMANO ISLAND, WA
TUESDAY JANUARY 27, 2009**

	<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>Terry Reynolds</i>	
	<i>Rex Porter</i>	
	<i>Alan Schell</i>	
<i>District 3</i>	<i>Wayne Havens</i>	
	<i>Deb Eidsness</i>	
	<i>Scott Yonkman</i>	

Meeting called to order at 5:38 p.m. by Chairman Alan Schell

ROLL CALL

Wayne Havens, Deb Eidsness, Terry Reynolds, Val Hillers, Ray Gabelein, Alan Schell, Mike Joselyn, Rex Porter, Scott Yonkman

Director Jeff Tate welcomed and introduced the new Planning Commission member, Rex Porter, stating he was a very talented individual with knowledge of the issues faced by land use and environmental protection topics, such as salmon recovery. Mr. Tate turned the floor over to Commissioner Porter to provide a brief personal history.

Commissioner Porter stated he was happy to serve with his fellow Planning Commission members. He grew up in Oregon, served 23 years in the Air Force, working in acquisitions, grants, as well as some work with the EPA. After retiring from the military he moved to Whidbey Island and has lived here for five years. He has worked for Island County in Public Works and Planning, in the Resource Enhancement area in watershed management, non-point pollution, as well as some salmon recovery work. For the last two years has been self employed partly as an instructor for a company back east, teaching classes about grants and as a consultant to different local governments related to water quality.

APPROVAL OF THE MINUTES

Minutes of December 2, 2008

Commissioner Gabelein moved to approve the December 2, 2008 minutes, Commissioner Joselyn seconded, motion carried unanimously.

Chair Schell stated this evening was the reschedule of the second public hearing on the Camano Gateway ordinance, which had been scheduled for December 17th and was cancelled by snow.

UNFINISHED BUSINESS

Proposed amendments to the Comprehensive Plan and Development Regulations as they relate to the types of uses allowed for commercial development within non-residential rural areas of intensive development adjacent to State Route 532.

Hand-outs

A map showing two areas in red, which are being considered for the proposed Camano Gateway Village Zoning designation.

Table of Contents (excerpt from the Island County Comprehensive Plan)
Chapter 17.03, Island County Zoning Code (excerpt from same)

Director Jeff Tate stated the second public hearing had been scheduled for December 17, 2008 and the schedule would have established a public comment period deadline following the December meeting. The Department sets up an opportunity on an issue such as this for the public to come to two separate hearings, in case one of the dates conflicts with their own personal schedule. The initial scheduling would have had a written comment period deadline at the end of 2008 and then would have moved into the Planning Commission's last meeting on the issue to deliberate on all the comments heard and start sharing their own opinions and then ultimately voting on a recommendation to the Board.

The Board of County Commissioners has the legislative authority in the County and the responsibility of enacting law. The Board can accept the Planning Commission's recommendation or they can choose to hold their own public hearings and further deliberate. Mr. Tate said he advises people that the Planning Commission is the real opportunity to be heard because there is no guarantee that the Board of Commissioners will open it up to further hearings. He tries to get that word out to people so they do attend these meetings in order to get their voices heard.

Mr. Tate stated the agenda indicates the public hearing will be followed by the public meeting on deliberations. He suggested the Planning Commission allow the agenda to be modified to hold the second public hearing for further public testimony and he suggested establishing a written comment period deadline of February 10, 2009. This would allow the opportunity to provide a press release of that deadline in the Stanwood/Camano News on February 3, 2009.

Chair Schell asked when the deliberation meeting would then occur.

Mr. Tate suggested either the week of February 16th or 23rd; a week or two after the end of the public comment period.

Commissioner Hillers moved to have the end of the public comment period on the Camano Gateway topic be February 10th at 4:30 p.m., Commissioner Gabelein seconded, motion carried unanimously.

Commissioner Havens stated he felt as this was a Camano Island issue it should be held on Camano and should be in the evening to allow for the public to be able to attend.

Commissioner Eidsness concurred with Commissioner Havens that it should be held on Camano in the evening.

The consensus from the other Commissioners was also for an evening meeting on Camano in mid to late February.

Public Hearing:

Second Public Hearing on the Proposed Camano Gateway Ordinance

Mr. Tate briefly explained the amendments proposed. There are two pieces being discussed. The first is a series of amendments to the Comprehensive Plan and that is reflected in the document titled, "Table of Contents". When defining land use regulation you need to have land use policy around which regulations are formed. It is generalized language, a document that sets the foundation for establishing County Code. He explained the underlined items indicated new language, the first of which is the Camano Gateway Village Zone. There is also a definition and designation criteria for a land use category.

The next affected part of the Comp Plan is located on the last page of this document and it is the Goals and Policies Section, but is a different chapter of the Comprehensive Plan and it defines a goal and a series of policies for this zoning designation, again around which County Code would be created.

The second piece being discussed is titled, Island County Zoning Code, Chapter 17.03. This is the law that governs land use regulation in Island County. The basic principle is creating a new zoning category in Island County called the Camano Gateway Village Zone. The document contains excerpts from the areas being proposed for change. On page 3, 17.03.135, shows the proposed Camano Gateway Village Zone, like every other zoning designation in Island County there is a list of Permitted uses, uses that are allowed in a Type I decision. This means you can apply for a building permit under which all the land use standards are reviewed, looking at architecture, landscaping and lighting, defining the permit process.

On the bottom of page three is the beginning of Conditional Uses, which jumps in to a Type II decisions, which means the proposal is required to be posted on the property on a yellow sign and it is advertised in the paper with a two week comment period; as the use gets bigger and more intense there is an increased level of public notice.

Page 4 lists Prohibited Uses then moves on to the designation criteria with a section on lot size and density within the zone for Mixed Use and the intensity or the size of building allowed within the designation. There is a section that defines setbacks and the height limits. This is the basic set of standards that would apply in this zoning designation.

Moving forward in the County Code you come to a section called the Land Use Standards, shown here on page 7; 17.03.180, which gets into more specificity on

development. The committee had discussions of different types of uses that should be permitted or prohibited, page 8 shows additional standards for fire stations in the Camano Gateway Village Zone.

Page 9 gets into the non-residential design, landscaping and screening requirements for commercial development, also parking, access and circulation standards.

Pages 10 -13 gets into a very detailed section on signage and outdoor lighting for commercial development in this area. There is a great amount of detail that doesn't apply in other areas of the county. This process will provide lessons and possibly some of the ideas may expand into other areas of the county where those standards might be appropriate to apply.

Page 16 begins addressing site coverage and setbacks. Site coverage address how much of a piece of property may be covered with impervious surface, how much can be covered with building and how much should be in open space. It also includes a discussion on setbacks, property lines and roads.

Pages 19 – 21 have an in depth approach to what the standards for overnight lodging might look like in this zoning designation if it were to be a use that is allowed in this zoning designation.

At the last public hearing a question was raised regarding the ability of the County to not allow churches within the Camano Gateway Village zoning designation. The claim was that not allowing churches would violate the U.S. Constitution, the Washington Constitution and The Federal Religious Land Use and Institutionalized Persons Act. The Prosecuting Attorney's office was consulted and determined that not allowing churches in this designation does not violate the free exercise clause of the Washington State Constitution, the Federal Constitution or the Federal Religious Land Use and Institutionalized Persons Act.

Washington State Supreme Court has developed a three part test to look at this particular issue, first they look to see if the party claiming infringement has a sincere religious belief, that was not considered to be a question here, second they look to see whether the government action burdens free exercise of religious practice and the third is if number two applies, is it offset by a compelling State interest.

The Prosecutor focused on the second part of whether or not the government action burdens free exercise of religious practice. They looked at the Code and determined that churches are allowed on almost every piece of property on Camano Island. There are only a couple of very small commercial areas on Camano Island; not permitting churches in this limited commercial area does not burden the free exercise of religious practice.

Chairman Schell stated this is a hearing for public input and opened the floor for public comment with a brief explanation of the procedure.

Planning Commission members prompted the Chair to remind the audience to follow up with written comments; even if they speak this evening written comments are preferred.

Carolyn Ehret, 903 High Rd., Camano Island

Ms. Ehret stated she wanted to address the subject of stuff on the Camano Gateway Corridor such as hotels/overnight lodging, gas stations and other types of conveniences. When she was thinking about this she thought back to when she first moved to Camano and what brought her there, what came to mind was the beauty of it, the mountains, the water, the wildlife and all of the friendly people. She stated that she had moved from Alaska where everyone waved to one another and although she didn't know a soul on Camano she felt right at home as people on Camano also wave to one another.

Moving to Camano had nothing to do with hotels, overnight lodging, gas stations or convenience stores. She further stated from the top of Land's Hill within two miles in either direction you can find all sorts of conveniences. Heading down hill into Stanwood there are three gas stations, two espresso stands, and three convenience stores within one block. Going the other direction there are many businesses at Terry's Corner with restaurants and a library, going a little further down you have a major store, gas stations, and a hardware store and then she asked what wasn't convenient about having all of that within a two mile proximity. She felt they are all blessed to live here amongst all the beauty and nature and there are many conveniences close by.

Ms. Ehhert further stated she is able to walk to the beach where she lives and walk there alone, without a crowd of people and wondered how convenient does convenient have to be and when is it ever enough.

Gary Muckleson, 792 El Rd., Camano Island

He stated his only concern is the water. Looking at the map displayed, he pointed out where there was a well in the area he lives and indicated the area that well serves. He said Juniper Beach also has a big well and a cluster of storage tanks also indicating the area served by that water system.

With a huge development such as a hotel in this area he is concerned about the water and how much they will use. A hotel would have laundry, showers and such and that small development would consume the same amount of water as their entire well system. If they lose their water what will that community do? He further stated he sometimes thinks it is all about the money.

Allison Warner, 316 Dove Dr., Camano Island County

She stated she had provided comments from C.A.R.E. at the last meeting and has brought another copy of it for the record and the new commissioner.

Ms. Warner stated that C.A.R.E was a part of the committee that helped put this together and she wanted to bring to the Planning Commission's attention that the primary issues the committee addressed were commercial viability and traffic.

It was discussed that there would need to be a separate process to address some of those issues and the Planning Department said they were considering a separate process to deal with traffic for this area. She said she didn't know whether or not that would happen and it was one of the questions she had.

C.A.R.E raised the issue of commercial viability, their members live here, they're part of the community, they care about their businesses and they want businesses to be successful. Therefore they feel an economic development plan needs to be updated in order to look at the viability of having a hotel at this area.

The citizen business committee was not equipped or tasked with the issue of whether a motel was viable. She said the logical place for a motel would be I-5; however there hasn't been one there. She stated country inns up to forty rooms are currently allowed in other zoning, but there has not been any development like that. A lot of the Bed and Breakfasts are struggling, a lot of the restaurants are struggling, and Terry's Corner development is struggling, so they are concerned about large infrastructures being built and not being successful.

The main concern for C.A.R.E is the issue of water quality and water availability. The development TR Camano is planning will double the water usage. At the last hearing she provided the historical information about zoning in this area. When the Rural Village zone was created, they were considering making a RAID out of Juniper Beach; it was explicitly removed from the RAID because of salt water intrusion.

Chairman Schell called for any further person wishing to be heard, hearing none he asked for a motion to close the public hearing.

Commissioner Joselyn so moved, Commissioner Reynolds seconded, motion carried unanimously.

Public Hearing on Wetlands

Amendments to the wetlands ordinance as it relates to the definition of Reasonable Use, monitoring of Rural Stewardship Plans, and the criteria for increasing the standard buffers.

Hand out

Ordinance C-130-08
Draft update to this ordinance, (with incorporated comments)
WEAN's comments
CTED's comments

Director Tate stated that in November the Board forwarded Ordinance C-130-08 to the Planning Commission. It is a proposal to modify three sections of the County's wetland ordinance.

The Board of Island County Commissioners, after receiving the Planning Commissions' recommendation, adopted the County's new wetland ordinance. The ordinance went into effect in July 2008 and is being implemented.

The wetland ordinance was appealed by W.E.A.N. and C.A.R.E. The Western Washington Growth Management Hearings Board issued their decision on November 17, 2008. It was a long decision, 89 pages, ruling on the 23 issues raised. In the ruling they determined three items did not comply with the Growth Management Act. The ordinance before the Planning Commission attempts to bring those items into compliance with the Growth Management Act. He noted the Growth Board when issuing the ruling, established a compliance schedule the Department must meet in order to ensure progress is appropriately being made. That schedule requires compliance by the County by May 13th of this year and then there is a follow up schedule with the Growth Board for another hearing to deliberate and consider whether or not the County has done a good job.

When the Department received the decision, the goal was to get the issue resolved as quickly as possible. The Department put together a draft ordinance, which is before the Planning Commission. The issues called out in that ordinance relate to the definition of Reasonable Use, the County's ability to increase wetland buffers when it's determined it is necessary and monitoring of Rural Stewardship Plans.

The Department's initial draft ordinance was forwarded to the Planning Commission and scheduled for two hearings. It was also forwarded to the appellants and the Department received some comments from W.E.A.N. on ways in which the proposal could be further clarified. The Department also received some comments from the State agency, Community Trade and Economic Development (CTED).

Mr. Tate provided the Planning Commission with a version of the draft ordinance that incorporated WEAN's and CTED's ideas. On an administrative level the Department, the Prosecuting Attorney's Office and Keith Dearborn discussed WEAN's proposal and CTED's comments and agreed with everything that was said.

The document provided is slightly different from the December 2nd document and is highlighted as to how it is different.

Commissioner Eidsness suggested they each date this document to make sure this version is easily identifiable.

Under the definition section of Reasonable Use 17.02A.030, the Growth Board's concern was that the wetland ordinance was allowing Existing Uses that no longer conformed to today's zoning to be classified as Reasonable Use. Reasonable Use has a different standard associated with it. It gets implemented where you might have a situation where a wetland and/or buffer covers an entire piece of property that was created 40 or so years ago. Reasonable Use is invoked in those situations to provide leniency in the wetland ordinance. If there were a 100 foot buffer it might be reduced. It is not just a given, there

are all sorts of standards that get triggered regarding mitigation and such, but it allows flexibility in looking at those situations.

The original ordinance adopted would have said if you have a residential zone and you have a grocery store located on that residentially zoned property that the grocery store that is there today would qualify to be considered under the lenient standards of Reasonable Use. The Growth Board said if it is non-conforming use that wouldn't be allowed there today, it enjoys the privilege of being able to continue to operate but if they wanted to expand and increase the size of the building you can't invoke the Reasonable Use privilege in those situations.

This language and with W.E.A.N.'s comments, tends to clarify that point. During the Planning Commission's deliberations Mr. Tate stated he didn't know if anyone had really thought about that idea. At the administrative level there had been no intent to try to create a net that would grab those types of uses in and allow them to qualify.

The definition being considered tries to say it applies to residential uses that are allowed today in the zoning ordinance. In that residential zone if someone applies for a permit for a home, Reasonable Use provisions can be invoked, but the grocery store example would not qualify.

The next item relates to Rural Stewardship Plans, which are customized plans for critical area protection. Landowners have options of which benefit of the Rural Stewardship Plan process they want to achieve. If you have a Rural Stewardship Plan, you could have a tax benefit if you don't want the tax break, you could get a reduction in land use intensity, which would result in a smaller buffer. The Growth Board said they didn't have any issue with that concept, but if you grant someone a reduction in land use intensity and therefore a reduction in buffer size, then you would need to have a monitoring program. It would need a monitoring element built into the Rural Stewardship Plan that makes sure that people are doing what they are supposed to be doing and that it's working. The bolded language on page A-2 describes that monitoring provision of the Rural Stewardship Plan.

Commissioner Gabelein asked if the Planning Commission had the option of modifying the language.

Mr. Tate stated the Growth Board did not provide the language that needed to be used, but only the issues that needed to be addressed.

Further down on page A-2 the standard for Reasonable Use is discussed it is the same principle as was discussed in the definition of Reasonable Use.

On page A-3, another section that deals with a Rural Stewardship Plan is where land use intensity is discussed. If a wetland buffer is reduced through a Rural Stewardship Plan it would trigger the monitoring requirement.

The next item, wetland buffer modification, is an area where the Growth Board said the County adopted a standard that was limited to increasing wetland buffers by 25% of the buffer size, but that it was not based on science. Instead there would be criteria set that says the County has the authority to increase the buffer size but it is based on criteria and the conditions on the site and not a set percent number.

Mr. Tate commented these amendments were relatively minor and he was hopeful the Planning Commission, after listening to public comment would be able to deliberate and make a decision this evening.

Commissioner Schell asked if there would be a problem with only having a hearing on Camano Island.

Mr. Tate stated the question had been asked of the Prosecutor's Office and they confirmed the Planning Commission would be able to deliberate at tonight's meeting if they so chose. It would not violate any procedural requirement. The proposal has been forwarded to both appellants as well as the notification that the hearing would be held on Camano Island, to which there was no negative response.

Chair Schell asked about the opportunity for written comment.

Mr. Tate stated the document has been available for public comment in anticipation of this public hearing, it has been noticed, it has been on the WebPage, notification that this action was being considered has been out there. Just like public comment was received on the Camano Gateway prior to the first public hearing being held, it was received because of the notification that the proposal was being considered.

Mr. Tate stated if the Planning Commission was uncomfortable with the idea, then they shouldn't do it.

Chair Schell stated he was concerned that a member of the public might feel they didn't have sufficient opportunity to make comment because there wasn't enough notice or enough time for them to be given an opportunity to speak.

Commissioner Eidsness stated that very seldom are meetings held on Camano Island. Camano Island people are not given their own meetings on most subjects, so she doesn't feel it should be an issue just because the meeting is on Camano.

Chair Schell stated this item didn't have a published public comment period.

Mr. Tate stated that if the Planning Commission had general agreement to reconvene at the next meeting in February that action can be taken.

Commissioner Gabelein stated the question may be better answered after the public hearing and after the Planning Commission has the chance to discuss the issue.

Chair Schell opened the floor to comments

Allison Warner, 316 Dove Dr., Camano Island

Stated she had comments from C.A.R.E., which had not been given to the Planning Department prior to this hearing. They were basically the same as the comments from W.E.A.N., but with one difference. She stated she had reviewed the input given by W.E.A.N. and had a further clarification under the monitoring of Rural Stewardship Plans, the issue is to monitor the implementation of those plans as well as their effectiveness. Her suggestion would be to add a clause under 6a, Specifies standards and time periods that will be used to judge both the implementation of the approved Rural Stewardship Plan and their effectiveness.

The other item C.A.R.E. is really concerned with is the Reasonable Use definition and provision as well as the Land Use Intensity coupled with the buffers.

She said they would still like to state there was no real need for a change in the definition of Reasonable Use or the policies related to Reasonable Use in the Comprehensive Plan. To broaden it with the wording logical, rational use that could be conducted fairly on a property, it is too amorphous language. Stating she has worked in Code Enforcement for a county before and knows the kind of legal challenges the county will get based on this. If you look at other counties the definition of Reasonable Use and provisions, there is nothing like this, even this county's previous definition was curtailed and very explicit. This definition has too many subjective terms.

They were also concerned with the buffers, the County was rated very well because it had very good buffers, but now under the water quality provision, it does not.

Chairman Schell called for any further person wishing to be heard, hearing none he asked for a motion to close the public hearing.

Commissioner Reynolds moved to close the public hearing and Commissioner Yonkman seconded, the motion carried unanimously.

Commissioner Havens asked how the monitoring would be set up. Would there be specific people to monitor these plans and how often would they be monitored?

Mr. Tate replied there are currently monitoring requirements for mitigation plans or tax programs; staff must revisit property after approval is granted to see if things are working. Depending on the type of project, some things are monitored yearly and some things are monitored every three years. As Rural Stewardship Plans are adopted they would probably need to be monitored every year. Unlike mitigation plans that are monitored for a set number of years, Rural Stewardship Plans would not have an end date, but would probably have a determination that in the beginning they would be monitored more frequently and as time goes on the need would be less frequent. There is definitely a staffing implication. The Rural Stewardship Plan is already set up to say if

you are doing this you are agreeing to have staff come to your property to visit it and see if things are working.

Commissioner Hillers stated she has read the proposed amendments and feels she needs time to look over C.A.R.E.'s comments.

Commissioner Gabelein asked if under Reasonable Use, with the change suggested, if a property along a lake, waterfront or stream was in an area being fairly well built out with lots developed following the code of the 60's or 70's how would Reasonable Use be applied when you got down to the last few lots being built today. How would you develop parcels meeting the current Code when there aren't any in the area that do meet the current Code, due to a setback or maybe in the future when an even stricter Code might be imposed by the State. It would mean none of those existing homes in many cases would meet the current Code.

Mr. Tate replied with clarification regarding the word existing, in County Code is synonymous with non conforming uses. The County chose to call existing uses, Existing Uses rather than non-conforming uses because non-conforming, which is common in other Codes, has a stigma associated with it, especially if you are dealing with a lender. So when the word existing is used, it means something that was legally established, but would no longer be allowed under current Code.

Therefore it is not so much what is existing in the area; it has a very definite definition. In the scenario given those platted lots are residential and in the Residential zone residential uses are allowed. In the Rural zone residential uses are allowed; if it is allowed in the Zoning Code it can be considered under the umbrella of Reasonable Use. If it is not allowed under the Zoning Code, that standard cannot be applied. If there is a community that is platting, whether it is fully platted or whether there are lots remaining, the same standards apply in both situations. It is a site specific standard, there is discretion involved in what reasonable means. Typically you would look to see what is normal in that community and what the historical development pattern is. If the average of all the houses in one community is 1,800 sq. feet and another is 2,700 sq. feet, the community standard, it is looked at differently, but the residential use would still be allowed through Reasonable Use.

However, if the State were to adopt a more restrictive standard, it would trump the County's. Hopefully there would be a standard in the State law that would still allow people to use the property, but no matter how the County defines Reasonable Use it will not trump State law.

Commissioner Gabelein stated when he reads the last line, to him it reads as saying they have to be consistent with the current development regulations. To him it would only allow Reasonable Use, if it is consistent with a home built in a development that is consistent with the current development regulations. He further stated he was comfortable with it in the manner explained by Mr. Tate but he is not comfortable with the language.

Mr. Tate asked if in the scenario Commissioner Gabelein was describing the pattern of development had a 50 ft. setback and the current development regulations had a 100 ft. setback the Department would be forced into implementing the 100 ft. setback rather than what the existing development pattern looked like.

Commissioner Gabelein stated that was the way he interpreted it.

Mr. Tate replied that his interpretation was correct. If someone came in with a piece of property that was part of a group of 200 ft. lots on the shoreline and previous lots had been built along the shoreline at a 50 ft. setback, current regulations would have to build 100 ft. back, according to the current standards.

Commissioner Gabelein asked what would happen if the lot wasn't 200 ft. deep and they couldn't build 100 ft. back.

Mr. Tate replied that would be when Reasonable Use would be invoked and they would be allowed to go forward only as far as they needed to go in order to build.

Commissioner Gabelein stated the language to him looked as if it was saying you would have to follow the development in the area based on a project that was done that is consistent with current development regulations. To him "consistent with current development regulations" means the only examples that could be used are those that meet current development regulations when you are going to apply Reasonable Use.

Chair Schell felt the problem lay in the fact they did not have all the definitions in front of them, stating they had wrestled with this before.

Commissioner Hillers commented they should go back and look at the full ordinance.

Mr. Tate stated there is the definition and then there are the standards in the Code and how they are implemented; both would have to be looked at together. He doesn't necessarily disagree with the clause in question because wherever possible development requires compliance with current regulations, but the standards for Reasonable Use provide greater clarity on what it is used for, which is to reduce the standards, reduce the regulation. It is a good point, but it requires looking at those two things together.

Commissioner Yonkman stated it does seem to be a conflict.

Commissioner Gabelein stated that if any area has been built out following old regulations it will be impossible in some plats to find an example that meets current development regulations and apply that as the Reasonable Use if the property in question didn't have enough room. To him it takes away the whole basis for Reasonable Use.

Mr. Tate replied that he would take the excerpts of Reasonable Use as a package, put it all in a word document for the Commissioners to read from beginning to end.

Commissioner Gabelein stated his other comment would be under monitoring under Rural Stewardship Plans. He would suggest adding language that it would not be the landowner who would be paying for the monitoring. He was afraid somewhere down the road the landowner would be asked to pay huge monitoring costs; the problem wouldn't be with how it is written today, but what it would evolve into.

Commissioner Joselyn stated he agreed with the last comment regarding the landowner being dinged for monitoring.

Commissioner Porter stated in terms of who does get dinged, if it isn't the landowner than it's the general tax payer. He would like to know in terms of a monitoring program if there is an example of what this might be like, such as another monitoring program. He also wanted to know what recourse the Planning Commission or by the Commissioners would have if the future Director feels that maybe this isn't right.

Mr. Tate stated as soon as the Planning Commission and the Board makes a decision on this you've released any ability on implementation. How it would be revisited is through a natural process of things percolating, either people apply, or ask that something be reconsidered, or a Planning Commissioner or the Board indicates they are getting negative feedback on a particular issue.

Rural Stewardship Plans are an administrative decision with an administrative review process, so the Planning Commission or the Board does not participate in that. In terms of philosophy on how something like this might be implemented it would be much the same as what is done currently with mitigation plans. They essentially establish milestones and standards people should be meeting. It may be as simple as leaving 80% of your property alone or it might require a proactive approach for a landowner to achieve a benefit, they may be required to replant or change a management strategy.

The decision of what is the appropriate measure is something that is dealt with on a daily basis when development proposals are reviewed. It is hard to define that in a model because it is trying to achieve something that is very site specific. There are other jurisdictions that have implemented something similar so there is somewhere to look, to see how it is working and to learn from any mistakes made. The County also has a Public Benefit Rating System program, a tax program that has some similar principles incorporated into it and monitoring has been implemented for that program, which provides some experience to draw from.

Commissioner Yonkman stated he also had concern on the definition of Reasonable Use but it sounded as if there would be more time to look at it. Regarding the wetland buffer modification he thought the Growth Board's comments were good, they wanted to look at conditions on the ground in making those judgments. During the whole process of recreating this ordinance the thing he liked the most was the thread that ran through it of adaptive management.

Regarding the Rural Stewardship Plans, good judgment is key; the whole ordinance is very dependent on a reasonable Planning Director and it is going to take a reasonable person to make judgments on these properties, keeping in mind that the key component is adaptive management.

Chair Schell stated his concern was that the homeowner would be assessed fees that would increase each year. He could see a fee increasing as the Planning Department's budget gets tighter and tighter and there isn't money to hire staff to do the monitoring that needs to be done. He said he regretted to have to say that not every individual in the county could be trusted to honor not using fertilizer within so many feet of the buffer and not to honor using only a certain wattage of light in their backyard and not to honor putting a deck closer than it should be; he has seen this done in his own homeowners association. It is unfortunate but without monitoring there will be a few individuals who will ruin some wetlands. His concern is if there isn't a fee than where is the money going to come from, money is tight.

Mr. Tate stated for those that enter in the Rural Stewardship Plan there is a fee schedule. The Board established a fee schedule, which is set right now. Different individuals can approach this in different ways; it has always been the practice in the Planning Department that if a fee is going to be initiated, it would not be retroactive. People who have applied for and earned approval of a Rural Stewardship Plan and have paid the fee today, next year or the year after there will not be retroactive charging. What is more realistic is that the Board or the Department would come up with a fee structure that would affect anyone who would be signing up for a Rural Stewardship Plan and they would know going into it what the fee would be in the future.

That principle could be incorporated into the language or in a finding that speaks to that issue. If you know going into this process that you will be charged \$50 each year, you would be agreeing to that and most people would agree that you don't go back and do that after the fact.

Chair Schell stated if there could be some clause addressing that he would then be comfortable with it. He further stated that from the comments, the Planning Commission is not comfortable in passing this at this time and asked for a motion for a comment period and an approximate time to take this up for deliberation.

Commissioner Hillers moved to have the comment period close on February 10th at 4:30 p.m., Commissioner Reynolds seconded, and the motion carried unanimously.

Commissioner Yonkman moved to have deliberation on this issue to be heard at the next meeting, Commissioner Gabelein seconded, motion carried unanimously.

Commissioner Gabelein asked if they would be receiving something on Reasonable Use.

Mr. Tate stated he would package it so the Planning Commission to have it all in one place to look over and will send it out shortly.

Public Hearing on Siting Public Schools

Amendments to the minimum lot size criteria for the siting of schools.

Hand out

Excerpts from 17.03.180

Mr. Tate stated he had forwarded a memorandum to the Board back in November, basically stating that in 2001 the County developed siting standards for public and private schools. Attached to that memorandum was a suggested change to those requirements that focuses on minimum lot size.

The proposal was rooted in what State law said about siting public schools. The Department put together a few amendments. On the second page the matrix shows the zoning category down the left side with the student body size across the top.

In 2001 a gradient scale was established for how big a property should be relative to student body size; the more students, the larger the property. The Washington State Administrative Code (WAC) incorporates the same principle but a different standard. The Department is suggesting the County Code aligns its siting standards the same way the WAC handles it.

Originally just the statement taken from the Administrative Code, which said the minimum acreage of the site should be five usable acres, plus one additional usable acre for each one hundred students. For schools with grades above 6th grade you would have an additional five acre requirement.

When this document was transmitted to the Planning Commission it was also transmitted to CTED, Community Trade and Economic Development, who recommended additional language, which is what is before the Planning Commission tonight with the new language shown in bold. It is another section of the WAC that says that a district can consider the use of a site that is less than the minimum usable acreage provided that, then it lists the standards. CTED suggested the County incorporate that principle into the proposal.

Commissioner Yonkman stated that reading through this it seems fairly reasonable and straight forward. He asked if the ratio the State uses seemed to be working.

Mr. Tate stated the one the State uses provides a little more flexibility. This has come up because there is a district that is looking at investing in property and there are two sets of rules. The State Superintendent of Schools likes the flexibility. The additional language being suggested by CTED may not be as applicable in Island County, but they believe that especially in urban areas it is hard to find that much acreage.

Commissioner Porter asked where the table came from and whether best practices were considered when it was drafted. Things related to the topics inside have changed a lot

since 2000 and he wondered why those were not being looked at in terms of best practices today such as infiltration or was there a reason to keep it the same.

Mr. Tate replied that staff had developed that back in 2001 and at that time the draft proposal had been forwarded to the districts, but did not get any feedback. Now that they are trying to apply the standards, the issue came forth. He further stated there was not a reason to keep it the same, but only this particular issue is being raised, without opening up the rest of it. With this one siting issue coming up it seemed a rational alternative, it was in the WAC and would be efficient to address.

The other issues may be worthy of looking into, but it would be a challenge to re-open an entire section of Code whenever a fairly technical issue is brought up. The County is in the process of developing a Low Impact Development Ordinance and that is something that will be before the Planning Commission and it will address how to look at a lot of these development standards differently in the future.

Commissioner Schell opened the floor for public comment.

Hearing none Commissioner Joselyn moved to close the public hearing, Commissioner Gabelein seconded, motion carried unanimously.

Commissioner Gabelein asked if an existing school needed to add a classroom would they get to move forward if they didn't have the acreage that meets this requirement.

Mr. Tate stated there was already another section of Code that addresses that. There is a variance standard for an Existing Use that exceed these ratios and it defines how they should be looked at.

Commissioner Havens asked about churches with preschools.

Mr. Tate stated that these standards are applied to the churches that have schools. There is a section of Code that deals with churches and a number of churches want to have a level of instruction. They are typically on a smaller annual student body and the size for acreage hasn't been an issue thus far.

Commissioner Hillers moved to accept the version handed out today, Commissioner Porter seconded, the motion carried unanimously.

Commissioner Hillers asked for more information on the water supply for the area in the Camano Gateway proposed ordinance

Mr. Tate stated there was an environmental review process that asks the Health Department to review from ground water pollution potential and a ground water supply. Mr. Tate stated he would provide that to the Commission prior to deliberation.

Commissioner Yonkman also asked about information relating to the wells and salt water intrusion.

Chair Schell stated that Mr. Tate had done an excellent job in the past of providing a list of concerns and a reply to those concerns.

Mr. Tate stated that this was already in the process and would make sure it was available. Commissioner Porter questioned who provides the answers now that the County does not have a hydro geologist.

Mr. Tate replied that he relies on the expertise of the Health Department to search out those answers.

Commissioner Joselyn moved to adjourn, Commissioner Hillers seconded, motion carried unanimously.

Hearing adjourned at 7:30 p.m.

Respectfully submitted,

Paula Bradshaw
Administrative Assistant