

**ISLAND COUNTY PLANNING COMMISSION  
SUMMARY MINUTES, COUPEVILLE REC HALL, COUPEVILLE, WA  
AUGUST 25, 2009**

|                   | <b>Members Present</b>     | <b>Members Absent</b> |
|-------------------|----------------------------|-----------------------|
| <b>District 1</b> | <b>Val Hillers</b>         |                       |
|                   | <b>Ray Gabelein</b>        |                       |
|                   | <b>Mike Joselyn</b>        |                       |
| <b>District 2</b> | <b>Terry Reynolds</b>      |                       |
|                   |                            | <b>Rex Porter</b>     |
|                   | <b>Mahmoud Abdem-Monem</b> |                       |
| <b>District 3</b> | <b>Wayne Havens</b>        |                       |
|                   | <b>William Lippens</b>     |                       |
|                   |                            | <b>Scott Yonkman</b>  |

Chair Ray Gabelein called the meeting to order.

**ROLL CALL**

Terry Reynolds, Mike Joselyn, Ray Gabelein, Wayne Havens, Val Hillers, Mahmoud Abel-Monem, William Lippens

Staff Present: Robert Pederson – Planning Director, Anthony Boscolo – Long Range Planner, Brandon Sweeza – Long Range Planner

**APPROVAL OF MINUTES**

**July 14, 2009**

*Commissioner Joselyn moved to approve the minutes as written, Commissioner Reynolds seconded, motion carried unanimously.*

**July 28, 2009**

*Commissioner Joselyn moved to approve the minutes as written, Commissioner Reynolds seconded, motion carried unanimously.*

Commissioner John Dean formally introduced the new Island County Planning Director, Bob Pederson to the Planning Commission and those present. Mr. Dean provided a brief run down of his experience including work in the Virgin Islands and San Juan County. Mr. Pederson trained as a field archeologist among his many work experiences and has recently come from Manatee County in Florida. Mr. Dean stated the County was very excited to have Mr. Pederson onboard.

**ITEMS FROM THE PUBLIC**

None

**UNFINISHED BUSINESS**

**Public Hearing**

**ZAA 338/08 Rezone Application**

To change the current zoning classification of 18 acres located at the intersection of Old Goldie Road and Ault Field from Rural to Light Manufacturing.

Hand-outs:

Revised Staff Report, dated August 20, 2009

Map K, Future Land Use Plan North Whidbey

City of Oak Harbor, Washington Future Land Use Designation Map, December 2008

Color Map of the area in question

Anthony Boscolo stated the application first came as a proposal to switch from Rural (R) to Oak Harbor Planned Industrial Park (PIP). The staff report was presented to the Planning Commission for that proposal in a hearing on June 9<sup>th</sup>, 2009. Public testimony was received. On July 14<sup>th</sup> the scheduled deliberation date, staff informed the Planning Commission that they could no longer give a recommendation for approval of the Oak Harbor Planned Industrial Park designation as the UGA boundary was not what appeared on the Zoning Atlas Maps in regards to these properties. Staff then prepared a new report with the proposal going from Rural (R) to Light Manufacturing (LM), which is a zoning designation that occurs within rural Island County outside of Urban Growth Areas.

The analysis in the staff report reviews the standards that these properties have, looking at the standards within the Comprehensive Plan of Island County Code. The Island County Future Land Use Map designates the applicants' property as Light Manufacturing already.

During this process all landowners have been contacted. The landowner of one piece of property has not given support for this designation, for financial reasons they cannot support any action. All other landowners have given their support for the designation of Light Manufacturing.

The City of Oak Harbor supports this rezone as well. The properties in question are being looked at for incorporation into the UGA in the future. From staff's perspective, keeping these properties zoned Rural allows for conflicting land uses to be established and would inhibit or prohibit potential future industrial activity once it's incorporated into the UGA. The current Oak Harbor Comprehensive Plan has these set up as an Industrial Zone.

Staff recommends approval of the designation of Light Manufacturing.

**Jason Hicks**, 3300 Old Goldie Rd, Oak Harbor, WA

Mr. Hicks advised that he owns one of these properties and stated that if this stays Rural and the rest of the UGA is eventually annexed into the city, the eighteen acres in question will have no contiguous borders with Island County. NAS Whidbey is to the east and to the north. There will be this little pocket with two houses surrounded by industrial uses. He said his take on the Growth Management Act was that the intention was to avoid these exclaves.

Unless the rest of the UGA was going to be trimmed back and other residential planning established, which conflicts with the noise zone and other issues, it would have to be at a minimum Light Manufacturing and eventually inside the UGA. It was his understanding this was marked outside of the UGA by mistake.

Marianne Edain – WEAN

Wanted to know if the Navy had been notified and asked for their opinion, and if so what was their opinion?

Mr. Boscolo replied they had been notified of the initial application and had no objection to it.

There were no further public comments.

*Commissioner Hillers moved to close the public comment portion of the hearing, Commissioner Joselyn seconded, motion carried unanimously.*

Commissioner Hillers stated she drove past the property and the Light Manufacturing designation seems to be the correct designation. It is not very rural.

Commissioner Reynolds stated the area was certainly not a place to build homes.

*Commissioner Abdel-Monem moved to approve the recommendation on ZAA 338/08, Commissioner Reynolds seconded, the motion carried unanimously.*

Mr. Boscolo stated he would send the Findings to the Planning Commission for their review and approval.

*Commissioner Hillers moved to authorize the chair to sign the Findings of Facts after review and approval by the Commission, Commissioner Reynolds seconded, motion carried unanimously.*

## **Public Road Right-of-Way Segregations**

### **Public Hearing**

Hand-outs:

- Transmittal and Report Memorandum
- Proposed Ordinance
- Growth Board Decision

Brandon Sweezea provided background information on the issue:

On September 29<sup>th</sup>, 1998 the Board of Island County Commissioners adopted Chapter 16.06 ICC, which included a provision that allowed for the unregulated segregation of parcels bisected by public road right-of-ways. Historically road right-of-way segregations were unregulated and were done through the Assessor's Office. A parcel bisected by a road could obtain two parcels numbers thus separately the property.

In November 2008 you could subdivide through a formal review but were exempt from base density requirements. On May 15, 2009 the Western Washington Growth Hearings Board ruled that Ordinance invalid and compliance was ordered to be completed by September 18, 2009. The ruling requested striking all the language that allowed any future segregation of these properties.

The Ordinance in front of the Planning Commission brings the County into compliance with the GMA Order. The Department has been directed by the Board of Island County Commissioners to come into compliance and perform public outreach to parcels that may be affected. It is possible lots divided post 1998 will be considered undevelopable.

Commissioner Havens asked how many parcels are involved.

Mr. Sweeza replied the 2007 numbers show 319 properties bisected by a public road right-of-way did not get parcel numbers from the Assessor's Office, which would not allow properties that don't meet the base density to subdivide. 215 parcels did get a tax identification number and were subdivided, 91 of those are already developed and 124 are not.

Commissioner Havens asked if they did get a parcel number but are still not large enough for the zoning, would they no be allowed to develop that property?

Mr. Sweeza replied they would essentially be non-developable. It would also include the parcels that did have structures on them in regards to accessory uses.

Commissioner Gabelein stated the 1998 date seems to be the key.

Director Bob Pederson replied, anything created prior to December 1, 1998 upon adoption of the Comprehensive Plan and Zoning Ordinance was an Existing Use as a defined term, any lots that existed as of that date would be considered grandfathered.

Mr. Sweeza stated that roughly 30 of the 124 undeveloped lots created and given parcel identification numbers after December 1998 do not meet base density and would thus be considered undevelopable.

Mr. Pederson provided information regarding the outreach to the affected landowners involved. He stated the Department recognizes there may be some pain in this.

Chairman Gabelein opened the hearing for public comment.

**Steve Erickson – WEAN**

He stated he was glad to see this finally laid to rest. It has gone back to the Growth Management Hearings Board twice; both times the Board has struck it down and invalidated it. This action will finally lay it to rest. There may be some fall out as the Planning Director pointed out. In that fall out is a strong cautionary warning that when you are advised that an action is illegal it would be good to heed that. It is what happened in this case, that advise wasn't heeded and the result is three years later an enormous amount of energy has gone into this from all sides and it is pretty much back to where it started.

**Marianne Edain – WEAN**

Stated she had some confusion regarding the parcels that were subdivided after 1998. Some of those parcels have been split and sold. She wanted to know if they had been sold and are sub-minimal parcels are they now undevelopable. If they have not been sold and were owned by the same party would they be required to re-aggregate those parcels into a single parcel? She stated she was also glad this has been laid to rest, but wanted to know what happens to the people who unknowingly bought those sub-minimal parcels.

Mr. Pederson replied that his understanding was that the Growth Board invalidated the first attempt at the Ordinance on 1/24/07. Any lots created post 1998 up to 1/24/07 are probably vested for creation of the lot but they may not be developable. Then there was a limited window between then and the adoption of Ordinance C-117-08 on November 10, 2008 when lots should not have been created. If anything happened during that time there would be a bigger problem

with those parcels. From 11/10/08 to 5/15/09 when the Ordinance was invalidated there should have been no right-of-way segregations. Some may have been created through the short plat process, those lots may be vested and buildable, provided they meet the other base density and lot size requirements. There are a couple of windows and as the fall out is determined there will be serious discussions with the owners of each of those parcels.

In regard to re-aggregation, only the courts can require someone to convey a piece of property back to someone else.

Commissioner Lippens asked if the same person owned both properties would the County require re-aggregation?

Mr. Pederson stated he had not looked into that question and would have to do further research.

**Stewart Young** – 3686 Oceanside Dr. Greenbank, WA

Mr. Young stated he was present out of self interest regarding this issue. This issue has been lingering around the Planning Commission and the County Commissioners for several years. The Commissioners have tried to protect Island County residents who have property that fits into this categorical issue and have been doing that through several Ordinances. These have been appealed to the Western Washington Growth Management Hearings Board, which exists to control overgrowth, preserve rural character, prevent sprawl, to preserve natural resource industries, and promote commercial agriculture.

Not surprisingly the Hearings Board has objected to the Ordinances proposed by the County Commissioners that have proposed continuing to allow the right of right-of-way segregations in the future, not necessarily going backwards, but going forwards. The Hearings Board wants this procedure to be stopped in the future. The fact is there aren't very many of these parcels that exist in the County.

The Planning Commission could recommend to the County Commissioners a simple way to protect Island County residents who have innocently been impacted by this. Until recently property owners could segregate property that was divided by a county road. The County Assessor issued the parcel number and the parcels were buildable providing they could meet Building Code requirements, even though doing so exceeded the density of the underlying zoning. The problem now is if the Planning Commission repeals Ordinance C-117-08 as suggested by the County Commissioners without anything more, those property owners who segregated their property after December 1, 1998 will have no clue if they own a legal valid parcel or one that is virtually worthless.

ICC 17.03.040 defines Existing Lot as existing prior to 1998; however ICC 17.03.230 is there to address non-conforming parcels that resulted from later changes in land use law. As an example, prior to 1985 there were numerous 2 ½ acre tracts that were created through the then legal subdivision process. The Code was changed in 1985 to require 5 acre minimum tracts. The ICC 17.03.230 is enacted to address those types of non-conformities. Parcels that were created legally by right-of-way segregations since 1998 are no different and should be permitted as potentially non-conforming lots that would be deemed existing under the Subdivision Ordinance. He further stated he refers to these as potentially non-conforming because they may meet the density requirements, they may meet the minimum lots size or they may not. They may not be able to

meet the Building Code requirements, but that needs to be determined at the time one makes application for a Building Permit.

All of the parcels created in this manner relied on the County's long standing policy of allowing those parcels to be split from the master parcel and issued a legal parcel number by the Assessor's Office. The Assessor's Office was then assessing those properties as buildable sites and taxing them accordingly for the last ten years. Many have already built a home on the site, do they get protected because they built and those who couldn't or didn't build are unprotected? Others have sold those parcels to innocent buyers who believed they would be able to build on those parcels.

He stated that in his case he has four such parcels, for which he has been issued building permits. Due to the dismal real estate market he has chosen not to build yet, but his permits will expire within the next year. Will he now be denied a building permit? It certainly doesn't seem to be fair, before acquiring these properties he confirmed with the Planning Department, the Health Department, the Public Works Department and the Assessor's Office to ensure he would be able to build on these parcels. All four departments confirmed that he could.

The Growth Board decision on the recent case 08-2-0032 focuses almost entirely on their dissatisfaction with allowing more non-conforming lots that result from county roads dividing larger parcels in the future. It says virtually nothing about vesting of lots that have already been created. In a prior case 06-2-0023 the Hearings Board members wrote on page thirteen of twenty-three pages, "we wish to make it plain that the Board has no intention of interfering with the County's determination of vested rights to develop a project by project basis. The Board has no authority to make these determinations and is not seeking to reach them here, see RCW 36.70A.030(7). The County is free to determine that an individual property owner has a right to build upon a lot based upon the factual and legal determinations the County makes in reviewing building permit applications."

Mr. Young further stated he would suggest that vesting parcels that have already been created in this manner would be consistent with the statement by the Growth Management Hearings Board in that case. He said the Planning Commission could very simply amend the Code section 17.03.230 and state that lots created and issued legal parcel numbers prior to that decision by the Growth Management Hearings Board would be deemed as legal existing lots just as those that were created prior to 1998. Minor changes to the definitions and the standards portions of the Island County Code to protect property owners who acted in good faith and reliance on the County Code and reliance on the Assessor's Office issuing valid parcel numbers and a long standing interpretations by the Planning Department issuing building permits for these parcels.

**Marianne Edain – WEAN**

Stated she had never met Mr. Young before, the reason Whidbey Environmental Action Network went to the Growth Management Hearings Board was because in 2006 they became aware of Mr. Young's purchase of forty acres on Lone Lake Road, twenty acres on either side of the road. This land was zoned Rural Forest, minimum parcel size ten acres. The land could have been subdivided into four ten acre parcels without the Lone Lake Road becoming an issue. Mr. Young chose to sub the land into four long narrow ten acre parcels each of which was then bisected by Lone Lake Road. He then did unregulated segregations of those four tens to create eight five acre parcels in the Rural Forest zone which had a minimum parcel size of ten acres. That brought the

issue to a head. She said she was sorry he felt a need to do it that way, he could have gone through with the long plat process like anybody else but in fact what he did was break the zoning of that forty acres and it is hard for her to feel a great deal of sympathy.

**Steve Erickson – WEAN**

Stated he thought he heard Mr. Pederson state these parcels will be looked at on a case by case basis as to whether they can be developed. He thought that was also what Mr. Young asked for. He did not think any other action was needed other than adopting the proposed Findings of Fact and the proposed Ordinance of the Commissioners.

**John Chambers 415 SE Pioneer Way**

Stated he was the Real Estate Agent that sold the land to Mr. Young. Prior to that purchase it was already listed as four segregated parcels split by the road they way it was. They went to every Department Head in Island County and everyone said they did not have a problem with it, Mr. Young did thorough research and this was the only way the purchase of the property penciled so it made any sense moneywise to do it. The property was developed in a responsible manner, not clear cutting as other investors had considered. Nice rural building sites were created.

*Commissioner Hillers moved to close the public comment period of this hearing, Commissioner Joselyn seconded, motion carried unanimously.*

Commissioner Mahmoud Abdel-Monem stated he was present at the Growth Board hearings and he remembers Mr. McNamara making it very clear that he imagined four scenarios.

1. Segregation happened, the lot was issued, permits were issued and the house was built on. He stated the Board had no jurisdiction over something that had happened in the past.
2. Segregation happened, received a building permit, but it was not yet built on. He stated they had no jurisdiction over that.
3. Segregation happened, tax parcel number issued, but there was no building permit was issued.
4. Lot was never segregated.

From the tone and the discussion he did not feel the Growth Board intended for the County to go back and say there was a lot done as a legal action but is now illegal. He further stated very careful research needed to be done on this issue. He did not feel the Growth Board had the authority to say something legally done ten years ago according to County Code is now illegal and the people who spent the money to build a house or buy a piece of property are now out of their investment. It might be important to find out exactly what the Growth Board said. He has read the decision many times and does not feel it says that.

Commissioner Lippens stated he didn't want this to become a takings issue. It causes him great concern.

Commissioner Havens stated he is concerned about the economy. In the past special attorney's needed to be hired to handle these lawsuits, more lawsuits will just cost the County a lot of money it can't afford. He hated to see lawsuits over something that could be worked out on thirty pieces of property in the County. If they have a tax parcel and meet the other criteria of

building permits they should be able to build on them and not lose their investments. He feels the public should be treated fairly.

Commissioner Hillers asked that if they adopted the Findings of Facts as presented, which involves striking down C-117-08, does it also result in not allowing building on parcels that have tax numbers.

Mr. Pederson stated if this Ordinance is adopted, it strikes that provision of the right-of-way segregation from the Code. It brings the County into compliance with the Growth Board Order. The next step would be to tackle on a case by case basis with each individual property owner the actual facts and circumstances for the segregation of their property. There were representations made in good faith based on the Ordinances adopted by the Board of Commissioners, but in two occasions the Ordinances were struck down and invalidated. It will not be an easy process, but failure to adopt this Ordinance will likely result in lawsuits as well.

Chair Gabelein asked about adjusting the Findings to address the thirty existing lots in that ten year period.

Mr. Pederson stated there is some danger in trying to treat them as a blanket issue because they will have a different set of circumstances. Just moving forward from this point would not be an advisable course of action as the estimated thirty lots will have different fact sets created for different dates from these two Ordinances. The best course of action is to look at each situation as it comes forward on an individual basis and treat it accordingly.

Commissioner Hillers stated adopting the Findings of Fact as they are gives the greatest amount of flexibility for the case by case basis.

Chair Gabelein stated he had a real problem thinking of people who have paid taxes on a parcel for ten years and he could not support the Findings as written. He would like to hear options from staff regarding lots that had parcel numbers issued from 2008 to May 2009 and if that would allow the Planning Department to look at those on a case by case basis.

Mr. Pederson stated he understood the comments made. Staff has presented an Ordinance reviewed by the Prosecutor's Office and it is the Departments best effort to bring the County into compliance with the Growth Managements Hearings Board. Each of the lots affected will be looked at on a case by case basis.

Commissioner Abdel-Monem stated he felt the best course of action was to strike this Ordinance. The question is the interpretation and who will be impacted by that. He would like to invalidate those parts of the Code to be in compliance and include a statement that recommends staff will have to begin looking at all of the lots involved and the intention of the Growth Management Hearings Board.

Mr. Pederson stated that he sensed the angst among the Planning Commission and the minutes will convey that as well as the Findings.

Commissioner Reynolds stated that she had heartburn with buying a property, paying taxes on it for ten years and then finding it was not a buildable lot. She felt that was a taking.

Commissioner Hillers stated the Findings could reflect that.

*Commissioner Hillers moved to adopt the Findings of Fact with the addition of a note that the Planning Commission is concerned about a fair way of treating parcels which have segregated and have a tax identification number. Commissioner Abdel-Monem seconded*

*Commissioner Hillers added to the motion the authority for the Chair to authorize signing of Findings of Fact after review and approval of the Commission.*

*Motion carried with Commissioner Havens and Commissioner Gabelein opposed.*

Recess of the Island County Planning Commission

## **Island County Planning Commission; Town of Coupeville Planning Commission**

### **Joint Island County, Town of Coupeville Planning Commissions Public Hearing**

#### **UNFINISHED BUSINESS – Second public hearing**

**Ebey's Reserve** – Proposed amendments to the standards and procedures that regulate development within Ebey's Landing National Historic Reserve.

Hand-outs:

Things You Need to Know

August 18<sup>th</sup> memo from Town Planner Larry Kwarsick

Town of Coupeville and Island County Proposed Ebey's Landing National Historic Reserve

Unified Code

Design Manual

Map

Sample Paint Colors

Chair Day opened the joint meeting for Town of Coupeville Planning Commission,

**Roll:** Doug McFadyen, Chet Baker, David Day, Molly Mcpherson

*Commissioner Chet Baker moved to appoint the County Planning Commission Chair to provide over this joint Planning Commission public hearing, Commissioner Mcpherson seconded, motion carried.*

Present: Bob Pederson - Island County Planning Director, Jeff Tate – Long Range Planning Consultant, Mimi Sheridan – Consultant for the Design Manual, Mark Preiss - Ebey's Reserve Manager, Larry Kwarsick – Town Planner, Nance Garner – Secretary.

Chairman Ray Gabelein called the Island County Planning Commission back in session.

Jeff Tate provided background on the amendments, explained the hearing procedure, and discussed the hearing schedule. September 15<sup>th</sup> will be the third public hearing. Tentatively there will be a September 29<sup>th</sup> deliberation.

Mid October is anticipated for the Town Council and the Board of Island County Commissioners to begin joint meetings to talk about the ideas and recommendations.

Mr. Tate stated this was an opportunity to influence this process. This is not a new idea, the rules and procedures in the Town and the County regarding historic preservation has been around for a few decades. What is being worked on is modification to those standards and procedures. He then explained the key differences.

1. Creation of a single Reserve Commission to replace the Town's Design Review Board (DRB) and the County's Historic Reserve Committee (HRC).
2. Strengthen standards for demolition of historic structures with one set of rules.
3. Establishing different types of review procedures. The proposed rules would provide three different types of decisions. Some made by staff, some made by a Reserve Partners Committee, which would consist of the Trust Board Manager, the County Planning Director, and the Town Planner. The third level would be more significant projects that would go through the public process with the Reserve Commission.
4. Establishing different review areas. Maps in the handouts provided show the two different types of review areas in the Town and the County.

Larry Kwarsick – Town Planner

There has already been one joint public meeting and one joint public hearing. Both the Town and the County currently deal differently with painting. As a response to public comments on the issue of painting, the proposal is to have a voluntary program based on a specific color palette. It will be a completely voluntary program. If they do not want to use the palette they will need to go through a permitting process, which will give them the opportunity to move away from the color palette and present some other alternative painting scheme.

There will be the an opportunity provided for anyone who wants to go to the Reserve Office or the County or the Town to verify the colors they have selected for painting are from the color palette and they will be provided formal documentation allowing them to move quickly forward.

Another concern raised by the public deals with demolition related to farm clusters and historic contributing buildings that are part of a farm cluster unit. Those historic structures and those contributing farm clusters have historic significance and are highly valued and need to be preserved. Farming as an industry and part of the local economy is also something that needs to be preserved and protected. Since the last hearing, alternatives have been looked at in order to stabilize farm cluster buildings that have lost their utility to the farm. There will be an alternative path for farmers, not a mandatory path, but an alternative path working on the development of a preservation plan. It would take a look at the condition of the buildings, working out details on how to facilitate stabilization of the structures and the farm economy.

Two geographic areas in the reserve are also established. Area 1 and area 2 are outlined within the reserve on the handout maps provided. The proposals will first be reviewed according to

which area they are located in, this will determine what type of review process will be required. In response to public comment, Penn Cove Park subdivision was included in area 2 with the exception of that portion of the park that is in contact with the shoreline and directly visible from Penn Cove.

In reviewing options related to the affect of the Commission decision, the Certificate of Appropriateness will go forward with the application unless a decision is made by the Planning Official in either the Town or the County determines that the decision was completely erroneous. The Commissions decision will be given deference. It is the County and Town's intention that the decision and the conditions of the decision will go forward with the permit application.

Mr. Tate discussed the color palette, explaining color is an essential aspect of sensitive building design within the Reserve. The affect of color in the prairie or forest is different from the affect of color within the Town. He previewed a portion of the color palette and showed some slides that showed the difference house color can make on the surroundings.

Chair Gabelein opened the floor to public comment

**Steve Foster** – 547 Scenic Heights Rd., Oak Harbor

Discussed page 62 of the designs and guidelines documents, utilities and mechanical equipment regarding a reference that monopole antennas are prohibited in the Reserve and communication towers shall not be placed in significant historic areas, scenic vistas or scenic easements etc. His concern is that PRB-1, which is a federal preemption that says, “(1) state and local regulations that operate to preclude amateur communications are in direct conflict with federal objectives and must be preempted; (2) local regulations that involve placement, screening or height of antennas based on health, safety or aesthetic considerations must be crafted to reasonably accommodate amateur communications; and (3) such local regulations must represent the minimum practicable regulation to accomplish the local authority's legitimate purpose.” He asked the committee to look into exempting the amateur radio community from these regulations before it turns into something that could involve legal environment.

If this document is accepted the way it is, it would also preclude the Sheriff's Office and the County Department of Emergency Management from being able to possibly provide communication in an emergency situation. He asked that they take a look at this issue.

He also did not see any reference to fines if you don't do what you are supposed to do. He stated that he felt penalties should be addressed. He stated he would like to see another final document presented before the next hearing.

**Robert Warder** – 202 NE 9<sup>th</sup> St., Coupeville – in the Jacob Straub house

He has lived here 32 years and has made repairs to his house as needed and never had to ask anyone if he was doing it right. From what he is hearing there are going to be fines if something isn't done properly. For thirty years he has never had a complaint, he has just done what is necessary. There are more repairs needed, but if he is going to be fined he may just stop working on the repairs. He doesn't care what color the other houses are, and feels the homeowners must be considered. His priority is to keep the house standing.

**William Etheridge** – 207 N.E. Front St., Coupeville

Stated he hadn't had a chance to read these documents and wanted to know who to mail the comments to. He also thanked those present for the opportunity to comment.

**Lee McWilliams** – 935 W View Ridge Dr., Oak Harbor

He has always understood that the property owners were joint partners in the Reserve. There is nothing in these documents other than residential. The people who have the houses and have been preserving them are completely overlooked. He stated he felt the people who have owned these houses and have protected them over the years should be on the Commission in order to have some representation.

**William Cheoqui** – 974 View Ridge Dr., Oak Harbor

It appears to him this will have the force of law for paint colors and is putting arbitrary decisions in the hands of unelected officials. He agrees with the gentleman who said earlier he doesn't care what color the house across the way is. He said they want to live in an attractive community, but not at the expense of getting approval of what color they paint their house.

When reading this he can't tell if he is affected by this or not. He is in area 1, but he doesn't have a historic structure, the house was built in 1970. He thinks it is arbitrary and capricious; it is an unfair insertion in the lives of people who live here by unelected officials.

**Perry Woodfin** – 1985 Penn Cove Rd., San de Fuca

Stated he was about to build a house next to a historic structure and has an idea of what he thinks would be acceptable and he wants to know if there will be a rapid response to determine if his idea would be acceptable, without having to go through a lot of planning and expense to find out that his dream is not what the Committee's dream is.

**Jason Joiner** – 217 Fort Casey Rd., Coupeville

In the document titled "Things You Need to Know" under the fourth bullet point it simply says, "Increase incentives for property owners trying to do the right thing." He said he would submit the right thing on his property, barring anything criminal or illegal, is anything he chooses to do on his property.

He wanted to state that he has lived here for a number of years, returned here after college to start a career and raise a family on the island because he loves it here. Generations have done this for years, passing property down through the members of their family. Farmers have made it a thriving community for 150 years. Those farmers and those property owners can do a much better job of preserving the character of this island than anyone sitting on a panel. The way that Coupeville appears now goes to the testimony of the foresight of the owners of the property who have maintained the structures that are 150 – 160 years old.

Those same farmers have been crushed by onerous environmental laws, which have stripped them of much of the use of their property to contribute to their farming. He stated any additional or continued regulation of what they can do with their old dairy barn will cripple the farmers even further.

More directly to this whole context is the great Constitution of the United States. He said we need to reevaluate the 5<sup>th</sup> and 14<sup>th</sup> amendments which say very clearly that private persons are

entitled to life liberty and property which shall not be hindered or taken by government without due process of law and just compensation. The simple fact of telling him what he can do with his property is stripping one of his rights as a property owner.

**Bill Engle** – 210 Fort Casey Rd. Coupeville

He stated he has a great grandson which is the 7<sup>th</sup> generation of his family to live on Ebey Prairie. Ebey's Prairie is what you see today because all the pioneer families got along great, they helped each other and they didn't tell each other what to do. Historically white was the dominant house color and red was the barn color or it wasn't painted at all. From what he has read he doesn't feel this is right. Trying to impose on people in America what color you can paint your house is not right, stating we are a better nation than that.

**Al Bowers** – 705 NE 6<sup>th</sup> St., Coupeville

He stated there were a few things that were beyond him. What constitutes Main St.? He stated that it is obvious to him that this is well under way and regardless of how many of these hearings are held it is still going to happen.

It appears to him this Commission is more interested in color than in structure. Is it right that he must abide by the color system to just bring tourists here? This generation will have their own place and will come forth with their own activities and that is their right.

**Al Sherman** – 30 South Engle, Coupeville – retired farmer and Ebey's Reserve Board Member  
He is involved in barn preservation. If the people hadn't gotten together this place would be a mess. There would be farm land with houses on it and the spit would be completely covered with houses and San de Fuca would also be covered with houses and there would not be the place to live that we have now. He has farmed all his life and is proud to be an American, but the fact of the matter is if you don't stand up for your way of life you are going to lose it.

He further stated he wanted to discuss pages 64 & 65 dealing with farm clusters which haven't been regulated in the past. Some of these are really historically significant and some are not worth saving. He said something needed to be done with this section. It says no building or structure in the farm cluster will receive approval for demolition without an approved presentation. There has to be a better way of dealing with this because some of these buildings just aren't worth saving. He said he appreciated what was being done.

**Bill Vertel** – 706 Cathedral Dr., Coupeville

Said he agrees with Mr. Sherman. Doing what you want to do whenever you want to do really isn't democracy. Democracy is people banding together and choosing what the common good is and then getting some rules to go along with that and then some enforcement to go along with that. He said he wholly believes these guidelines are needed. It is impossible to maintain the character of something as special as Ebey's Reserve without them.

The historic character depends upon open spaces, water and mountain views and beaches and ancient trees, weathered barns and historical homes. Frankly left to their own devices some people will destroy some or all of that out of ignorance, tastelessness, selfishness, focused solely on profit and therefore you need rules to prevent that, to avoid becoming everywhere USA. This is a very special place. It seemed to him these rules are trying to preserve reasonableness in development.

**Rosemary Densen** – 711 Fort Ebey Rd., Coupeville

Stated she has looked at the color palette and doesn't know where the source of colors have come from but thinks having an addition of some cheerier colors like yellow or orange and broadening the palette may be helpful.

**Karen Bishop** – Ebey Road Farm, 225 Ebey Rd., Coupeville

Stated she appreciates the time spent on this process. Feels it is good to define the process and tighten up the process so everyone understands the expectations. She said her farm was part of the original development right land exchange when the Reserve was originally established. They have two big old barns that are sadly in need of repair. They have a number of outbuildings of which some may need to be demolished and an old house that their son and daughter-in-law are just moving into. They value all of these buildings and want to do the right thing for them, stating color was the least of her worries.

When the development right exchanges and trades and sales were made, farms had development pockets. In those pockets there has to be maintained the maximum amount of flexibility in order to maintain the viability of the farming operation. When writing the original easements on the property, they were written with the maximum amount of flexibility. One example was if they needed to put little plastic bubbles around the prairie for a period of time because that is what farming would need at that point in time, then that is what they need to do. Then maybe those bubbles will be removed and the next thing would come along.

Within those development pockets, one concern she has heard is whether they will be able to put up greenhouses, can they do those things that will keep farming viable. In this process, looking at it from that point of view is essential. The long dairy barns built here were all construction in the last forty years. Will they be able to do things like that in the next forty years moving ahead?

The farm cluster preservation plan is an attempt at a good thing, but it needs a lot of work. Farmers are farming right now. They are farming and can't pay attention to this. This needs to slow down, possibly by a few more months to really vet this. Working land owners that are actually working in this economy need to be represented.

**Mel Vance** – POB 2288, Oak Harbor

Wants to begin with the boundaries, based on the wording used in the boundaries, it states anything that can be seen from the Reserve. You can see Port Townsend from the Reserve or Oak Harbor, based on the wording in the text it sounds like it is trying to regulate what can be done in these areas. It is not what is shown on the map of the boundaries. It is something that needs to be clarified.

In regards to the color palette, painting Victorian colors on a 1920 era building looks terrible. They are doing that in Oak Harbor and it doesn't look good. They used different color palettes in the '20's than they did in the 1900's. The same thing applies to painting a 70's ranch style house a Victorian orange, it too looks terrible. The color palette should be appropriate for the era of the building, rather than for a specific year in history.

Specifically he is concerned that this has far reaching affects on the County especially in an emergency. The Emergency Management System for the entire island is located in Coupeville.

According to PRB-1 you don't have the authority to ban towers even in the Reserve.

Another area of concern is communications for official agencies. They are not using repeaters they are linked by fiber optics to the dispatch center as well as the 911 system. Consider carefully the regulations on antennas.

**Lauren Hubbard** – 201 Ebey Rd., Coupeville

She stated she is about to move into a beautiful historic structure which currently has no insulation, a plywood door and will require a lot of material costs to fix up. She said she understands in reading the draft materials that wood windows are the preferred historic material to use. However in terms of cost savings and energy efficiency she feels there needs to be something written into the plan stating what alternate materials would be acceptable at a lower cost. A metal roof option needs to be considered; possibly in a preferred color as an alternative. It needs less maintenance and is more cost effective. The plan puts a lot of pressure on people who will be maintaining these structures.

She is concerned about needing to get a permit for every little item. They cannot afford to fix the house all at once and there needs to be something in place for those who need to do maintenance in a piecemeal fashion. They cannot afford to pay a permit fee and come before a committee every time they need to replace a window or do a repair.

**Lila Snofer** – 601 Snomont, Coupeville

She commended the Commissions for working on this issue, stating they had a difficult job. One of the things she liked about the draft materials was the Certificate of Appropriateness. Coupeville is the second oldest town in the State of Washington.

She mentioned the example of the color palette is only a small representation of all the colors that are available. Most people who are here have come after the Reserve was established. If they want a purple and orange house they should live outside of Ebey's Reserve. The more people there are in an area the more rules there needs to be.

She stated she would like to see the guidelines as strong as they can be made. She would like to see more restrictions and control over all of the entries into Ebey's Reserve and all of the main streets in Coupeville.

**Ernie Rosenkrantz** – 605 Madrona, Coupeville (the Dr. White house)

He has lived there for forty years and thinks the historic structures need to be protected.

In regards to freedoms, none one has freedom, you must plant trees, observe setbacks etc. One of the main differences he has seen between Coupeville's historical review and the County's historical review is the paint. Coupeville hasn't had a paint Ordinance and have done fine without it. If this is such a bone of contention, maybe there doesn't need to be one. It doesn't hurt the structure and can be repainted later. He said it is one little freedom that bothers him, when he wants to paint his house he wants to paint it whatever color he wants. It is a big thing with him and he considers it the straw.

**Pat Cosine** – 735 Laconna St., Coupeville

Stated that every community has the right to decide what they want to look like. Thirty years ago the community created the Reserve through a long process that was very controversial but looking back all think it is a good thing. It was created because there were five acre “ranchettes” being set up in the middle of Ebey’s Prairie. It was created to preserve the cultural landscape that the farmers created. The standards want to preserve that landscape. She wishes those standards were created several years ago in Sierra, there is a house that was painted a very inappropriate color. She stated she likes the color, it is a beautiful color. She has seen the color in Mexico and it looked great there. She feels these standards are here to protect the communities and it does matter what color your neighbor paints their house.

She hopes that the County will look at supporting the Reserve monetarily. She knows the design review has been in the process for a long time. It’s a huge job and thanks all for their hard work and participation in it.

One of the things she likes is the prioritization of areas within the Reserve and the voluntary alternative for those proposing small scale projects.

**Wilbur Bishop** – 1520 Hill Rd., Coupeville

Stated there was one thing that bothers him and that is being told what color he should paint his house. It was an Engle that told him he had to buy a green tractor, but he bought a red tractor. The difference is Mr. Engle advised him to buy the green tractor and he chose to buy a red tractor. He thinks it should be an advisory committee and at the end of the day he does not want it to go beyond that.

**Marshall Bronson** – 508 S Main St., Coupeville

He owns one of the historic structures; the color is primarily to preserve those qualities that make the central part of Whidbey, Ebey’s Historic Reserve and Coupeville look good and feel good and it is why you live here. Those are the elements that are trying to be preserved.

There are a lot of people who have put a lot of time in to keep the center part of Whidbey Island a pleasant happy place to live and he thinks this program is a very good beneficial program.

**Steve Foster** – 547 Scenic Heights Rd., Oak Harbor

Said he has emailed very specific questions and has not received an answer. He would also like someone to explain the rest of the process.

Mr. Kwarsick stated in terms of scheduling. Originally deliberations were to be held on September 15<sup>th</sup>, it has been decided to continue the public hearing to that date and allow the Planning Commissions to make a determination at that hearing as to whether to continue beyond that date. After the Planning Commissions close off the public hearing process, they will deliberate in an open public meeting looking at changes and amendments. The two Planning Commissions will hopefully provide a joint recommendation to their respective legislative bodies, the Town Council and the Board of County Commissioners.

The Town Council and the Board of Island County Commissioners have already made the decision that this is of such community, County, and Statewide significance that they are going to have their own set of public hearings. The two legislative bodies, prior to scheduling a public

hearing plan to meet in an open public meeting to discuss the recommendations they have received and identify whether there are changes they wish to promote.

Commissioner McFadyen

Thinks there needs to be some discussion on the makeup of the Reserve Commission and the farms should be given a significant piece of it.

*Commissioner Joselyn moved to continue this hearing to September 15<sup>th</sup>, Commissioner Baker seconded, motion carried unanimously.*

Mr. Tate reminded the audience that revisions will be made based on the input heard tonight.

Chairman Day thanked the audience for coming out tonight, stating this was a form of democracy and to stay informed and participate.

Chairman Gabelein adjourned the meeting at 7:51 p.m.

Respectfully submitted,

By Paula Bradshaw  
Administrative Assistant