PLANNING COMMISSION
COMMISSIONER’S HEARING ROOM, COUPEVILLE, WA
TUESDAY, May 27, 2014

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<th>Members Present</th>
<th>Members Absent</th>
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<td>District 1</td>
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<td>Val Hillers — Chair</td>
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<td>Dean Enell</td>
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<td>Mike Joselyn — Vice Chair</td>
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<td>District 2</td>
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<td>Jeffery Wallin</td>
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<td>George Saul</td>
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<td>Leal Dickson</td>
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<td>District 3</td>
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<td>Wayne Havens</td>
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<td>Beth Munson</td>
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<td>Scott Yonkman</td>
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Meeting was called to order at 9:08 a.m. by Chair Hillers.

ROLL CALL
Wayne Havens, Mike Joselyn, Beth Munson, Dean Enell, Val Hillers, George Saul, Scott Yonkman, Jeffery Wallin, Leal Dickson

Minutes:
NONE

Planning staff present: Brad Johnson – Long Range Planner, Will Simpson – Long range Planner, Jamie Hartley – Critical Areas Planner,
Consultant staff present: Sarah Sandstrom, Dan Nickel, Lisa Grueter

ITEMS FROM THE PUBLIC
NONE

DIRECTOR’S REPORT
Dave Wechner did not have an oral report to give to the Planning Commission but will forward the Planning report he gives to the Board of Commissioners.

Continuation of Public Hearing from May 13, 2014 – The Planning Commission will hold a public hearing on proposed amendments to the Island County Comprehensive Plan and Development Regulations to protect Fish and Wildlife Habitat Conservation Areas.

Brad Johnson informed the Planning Commission of the changes and updates that have been made to the documents presented to them based on the Planning Commission comments and the public testimony received at the previous hearing. Staff also held a work session with the Board of Commissioners and made some changes based on that meeting.

- Included language in the applicability section of the code clarifying forest practices.
- Agriculture exemption based on the May 13 hearing, staff understands that the Planning Commissioners did not want to extend that timeline by finite amount but rather include language that could allow interpretation of the 5 year period to account for unforeseen occurrence.
• Staff met with the Island County Board of Commissioners and a question about the expanded riparian buffers was brought up. There are two options that are now presented.
  - Option A would reduce the fixed buffers to the low end of the buffer range. It would also eliminate the buffer averaging and reduction provisions that were included in the original draft of the code.
  - Option B keeps the buffers the same and consistent with the Shoreline Master program.

Commissioner Enell asked staff about the agriculture extension beyond 5 years. He said he did not see the language in the document. He suggested that adding language that states the person making decision will carefully weigh the ecological values of the property against the real possibility that the land will return to agricultural use in the near future. He would recommend allowing one time 2 year extension as well.

Commissioner Hillers stated the process of this extension is not clear. It is implied that somebody approves it but it is not specific.

Brad Johnson addressed both Commissioner Hillers and Commissioner Enell’s concerns. He stated that exemptions do not require a permit of any type and it was set up that way to make it clear. There is language like this in the shoreline exemptions and they get difficult in an enforcement standpoint. The alternative may be to provide a fixed period of time.

Commissioner Havens said that perhaps instead of an extension just state that they are allowed 6 ½ years instead. This way the owner knows the specific time allowed.

Commissioner Enell stated he supported that approach as well.

Commissioner Hillers reminded the Planning Commission that this time is to ask questions related to the subject and deliberate after the public comments have been heard.

PUBLIC COMMENT
John Lee, 3580 Overlook, Langley
• Appreciates the efforts that people have been involved.
• Would like to speak on a matter of detail, specifically Exhibit E and a piece of property he is familiar with. He spoke about his background in Oklahoma.
• In reading through the exhibits there are only about 100 acres of prairie lands that are undeveloped. These lands are rare and need to be protected.

Steve Erickson, WEAN, PO Box 53, Langley
• Discussed the agriculture exemption and the problem with the language being proposed is open ended and there is no clarity. The 5 year standard for how long it takes for agriculture land to be considered abandoned comes from the Federal Clean Water Act. They have a 5 year standard, if farm wetlands are abandoned for 5 years then the wetland hydrology re-establishes then it is no longer exempt from the Clean Water Act.
• If it is extended for more than 5 years they must check with the federal government.
• Question of stream/riparian buffers.
  • There are two choices:
    ▪ Manage stream buffers to the absolute minimum and provide no allowance for any flexibility
    ▪ Establish buffers that are wider and more ecologically protected and could reduce the average when necessary.
  • WEAN favors the second option.
• Prairies – what the consultants have done is try to show that all the extent prairie remnants are already protected by other means and that is not accurate. WEAN has explained their concerns in the memo provided in more detail.
  • Need to explicitly state the protection of the prairies.
  • Not all prairie remnants have individually protected species present. The ones that do are very ambiguous.
  • Is willing to take the County or consultant to go to visit these sites and in the past 15 years no one has accepted this opportunity.
  • There are 6 sites that are not protected.
  • Thurston County refers to them as state and federal species.
  • He further explained why he feels the species need to be individually listed and protected.

Karen Bishop, Whidbey Island Conservation District
She would like to make a couple of comments:
• She is concerned about the timeline. Her concern is simply to make sure through this update as well as other County code updates, that land is not forced out of agriculture production. She agrees with Steve and she found it in the Federal Clean Water Act. However this is the way she looks at this, the 5 year timeline for exemption was probably set very similar to a group of people like the Planning Commission, in a room, who said 5 years sounds about right for land to lay idle before it is considered no longer exempt. She thinks 5 years is good as a guideline however being in the position she is in and working with a lot of the state issues where people get elderly, they become ill and their land simply becomes idle for a period of time. She would still like to see in this update a provision for situations where life is happening to be able to not pull the exemption from these agricultural lands, she feels that it is very critical. 5 years is a blip on a screen in a situation like that. She thinks that with careful wording that 5 years can be used as a guideline but make sure that there is some flexibility allowed.
• The other issue is that agricultural landowners are bumping up against with more and more regulations for trying to maintain the drainage on the agricultural lands. They have had to hunker down and are afraid to do anything, because there can be a lawsuit or they will be challenged by a regulatory agency. For that reason there properties that sometimes bump up against and over this 5 year period of time and it isn’t that the land owners aren’t trying to maintain their drainage it’s just that they are up against hurdles that they have a hard time figuring out how to get over. She hopes that the Planning Commission will maintain an open mind on it; she doesn’t think that this is sacrificing environmental protection just by maintaining what’s often been in place for over a hundred years in areas over the County.

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• The other area she wanted to speak on the decision she believes will be made today is on the buffer requirements. She received this information on late Friday and she has not had a chance to get it through her technical staff or for it to go out to the landowners who are the people that are going to be impacted by this decision. She would encourage holding off on the decision today to allow getting feedback from those that will be affected by the decision. The buffer regulations are influx at the Federal level, at the State level and Local level, if the Planning Commission does feel forced to make a decision today she would definitely tie to NRCS standards which are documented in the Best Available Science documents that are supporting the updates. She thinks that they do not want to tie themselves to a certain number of feet or a certain size of buffer, but would like to maintain the ability to be flexible as the science in this buffer regulations change.

Angie Homola, 2362 Happy Lane, Oak Harbor
She would like to thank the Planning Commission, staff and consultants for their hard work. She thinks that it is important to protect and preserve wildlife. Island County is not a thoroughfare destination people come here for specific reasons and one of those is recreation and wildlife viewing. Though the local economy is heavily relying on NAS Whidbey Island the next and best job opportunities are relied upon tourism.

• Tourist destination.
• The importance of sustainability of rare species.
• Public works is currently working on a bike trail around the Island.
• In Washington State, wildlife watching has an annual economic activity of 1.5 billion dollars. 26,000 jobs are associated with it and exceed that of sport fishing.
• Include Prairie Woodlands they are some of the rarest habitats left on earth by specifically designating them in the Fish and Wildlife element of the Island County Comprehensive Plan.
• Regarding setbacks – she would like to see them maximized to protect what already exists and allow flexibility to address their special and specific needs. She would advise to not minimize the setbacks.

Sarah Schmidt, 243 Rhodena Drive, Coupeville
On behalf of Whidbey Audubon Society
She wanted to echo Angie Homola’s appreciation to the volunteers, staff and consultants for all the work that goes into this. She served on the TAG and appreciates the opportunity to serve as well.

• Riparian buffer widths they support Option B, the wider widths offer a higher level of ecological protection; are consistent with the new draft SMP whenever that is approved and maintain the allowance for reduction and averaging.

• Regarding the definition of Wildlife Habitat and Conservation Areas, she wants to take an exception to the way some things were represented in the memo from the County and the prairie memo from the consultants. She did not agree with the memo from Brad Johnson from May 23rd, she is not quite sure what the intention was since it did not reflect her experience on the TAG. The prairie memorandum from the Watershed Company stated that all the members opted for option one. She attended all the meetings and she does not remember any kind of vote during the TAG meetings. She did recall
that once they went through the Best Available Science (BAS) piece and discussing the
proposed regulations it was like a stonewall when talking about prairies. There was
absolutely no openness on the part of the representatives of the County and the
consultants. She does not want it to be in the record that the TAG was in agreement that
it not be included.

- She encourages the Planning Commission to study the memo that was received from
  Steve Erickson that addresses why the existing protections are not adequate.
- Has concerns about the attempt to separate plant species from fish and wildlife.
  - Wildlife lives in terrestrial, without the plants the wildlife would not exist.
- Addressed comments received from WEAN, Whidbey Audubon endorses the points that
  were listed in the May 11th.

Carolyn Geise, 7224 S Maxwelton Road, Clinton
She would like to address two of the issues that have raised today.

- The five year time frame limit regarding inactive farmland. She feels that five years is a
  very short period of time dealing with elderly people and unclear regulations.
- Expressed her experience on permitting process through the various agencies and
  confusing rules and regulations.
- She would like to see some flexibility due to the lack of clarification on regulations and
  understand:
  - How to clean drainage.
  - How to maintain beaver dams.
- She would like to see options for flexibility on buffers.

Marianne Edain, WEAN PO Box 53, Langley
She has a few points she would like to discuss:

- Buffers.
  - Option 1 is at or possibly below the minimum from what the Best Available
    Science recommends. In Island County Reasonable Use Exemptions trumps other
    things and would allow for sub minimal buffers.
- Five year limit – land left being unfarmed/unattended. She wanted to remind that the
discussion is not on an entire farm, this only applies to those areas that are affected by the
Fish and Wildlife Habitat Conservation Regulations.
- Prairies, while doing research Steve Erickson read a decision by the Growth Management
  Hearings Board in a case from 1998, and it directed Island County to protect four of the
  species that WEAN nominated back then. One of those species has now disappeared.
- As the petitioner they are prepared to go to Growth Management Hearings Board to ask
  for an extension on the deadline.
- She feels the nomination process is in effect futile, they have presented what information
  is available and it was considered not good enough. In effect they are asked to gamble a
  $5000 application fee on the hope that going through the nomination process will result
  in designation, it has not done so in the past and they see no reason why that would
  happen in the future.
- She also asks that the spelling of Cicut bulbifera be corrected.
Steve Erickson, WEAN PO Box 53, Langley
He wanted to expand on why they do not think they should have to undertake a whole nomination process for designating prairies at this point. Aside from the $5000 application fee, there is a more fundamental reason. That process is intended for species of local importance. The species that are listed by the Washington Natural Heritage Program are not of local importance, they are of global and statewide importance.

Sara Schmidt asked Commissioner Hillers if this was the end of the public input section.

Commissioner Hillers stated that it was since she asked if anyone else had anything else to state and no one responded.

Sara Schmidt, 243 Rhodena Drive, Coupeville
She wanted to encourage studying the documentation as extensive as it is but it is based on many years of history and research and understanding of the issues around prairies and also the language about primary association. The documents received from WEAN are worth giving serious perusal and thought to.

Commissioner Hillers closed the oral testimony and the Planning Commission will read the written comments received this morning and be back in session at 10:30.

Commissioner Hillers said the Planning Commissioners have heard oral comments and read many public comments and have some questions of staff. First she wanted to state that they are the point of closing the public comment period. She asked if someone would like to make that motion.

Commissioner Enell moved to close the public comment period unless Planning Commission needs advise or council from the public in the future, Commissioner Yorkman seconded, motion carried unanimously.

Commissioner Wallin asked staff what the process would be to get an extension on the 5 year agriculture exemption. He asked who reviews the application and makes the decision.

Brad Johnson answered Commissioner Wallin that there is no process in the code or a permit required of something that is specifically listed as being exempt. He heard two options being discussed by the Planning Commission.
  o Retain or strengthen the language
  o Provide a specific number.
  o Staff would recommend choosing a specific number. This would not require written approval from staff and would be consistent with the rest of the exemptions are processed.
  o There is a question raised in the part of enforcement. Brad asked what sort of standard would there be in the absence of a permit.
Commissioner Hillers asked staff if exemption could be more than five years under exceptional circumstances.

Brad Johnson proposed to Commissioner Hillers one option that may be considered is to retain the language as it is currently written but noting that written approval from the Planning Department is required in order to extend it. That would not have to be a permit but can be an e-mail or a letter.

Commissioner Yonkman asked staff to prepare language and present to the Planning Commission regarding the extension.

Commissioner Munson asked staff if perhaps the extension be for 3 years.

Brad answered Commissioner Munson that 3 years is consistent the way staff handles extensions of shoreline permits.

Commissioner Enell said he would favor an approach such as that. He thinks granting the extension but limiting the extension period.

Jamie Hartley suggested to the Planning Commission that there be a floor and a ceiling with some flexibility in between due to circumstances varying.

Commissioner Enell asked staff that the 6 ½ year timeframe allows for that. Since it is a 5 year permit and then 1 ½ year extension.

Commissioner Havens responded he suggested the 6 ½ year timeframe in order to allow for consistency due to the staff changes in the department.

Commissioner Hillers is opposed to the ½ year portion.

Commissioner Yonkman suggested 7 years.

Discussion regarding to the timeframe continued.

Commissioner Saul asked staff what would happen if the owner misses the timeframe for an extension, would the owner be allowed to still apply for the extension.

Brad Johnson suggested to the Planning Commission would be two-fold, one is the specifics in the code language and the other is the practicality of how these things are enforced. His recommendation is to keep this as simple as possible because it is in the context of an exempt activity. When it starts to get too complicated then it would be more appropriate that it not be exempt. One way to structure it might be that an extension can be provided in writing from the Planning Department not to exceed the maximum number set time by the Planning Commission.
Commissioner Enell indicated that his reason in favoring this is that Island County is exceptional and is trying to encourage agricultural practices perhaps more than some. He thinks that 6 or 6 ½ years is appropriate.

Commissioner Dickson supports Commissioner Enell’s suggestions and he does favor some flexibility. That flexibility should be spelled out so that a landowner knows what the time period is. He favors the 6 or 6 ½ years, he does think there needs to be some flexibility but it needs to be defined.

Commissioner Hillers does not feel that it needs to be defined and should be left to the Planning Director’s discretion since there are some exceptional circumstances. It is the County’ goal to preserve its rural character and to her it means that land stays as agriculture rather than being developed as housing.

Commissioner Enell motioned to direct staff to make changes based on the testimony heard from the Planning Commission regarding the extension of the five year agricultural.

*Commissioner Enell motioned to direct staff to add language to a specific timeframe not to exceed six or six and a half years to allow some flexibility to encourage agricultural practice in Island County but not extend beyond the six and a half year period approximately, wish to favor the standard throughout the country and other jurisdictions of five years so they would have to apply for an extension. Commissioner Havens seconded the motion.*

Before the vote Commissioner Munson stated that the testimony heard earlier from Ms. Geise she had been involved in this for 14 years and there is going to be a vote on adding a ceiling to the process.

Commissioner Enell responded to Commissioner Munson that he did not think that it was necessarily dealing with extending an agricultural exemption.

Brad Johnson addressed the Planning Commission, stating the exemption extension language deals only with those agricultural practices which are exempt, permitting issues that may be run into have to do with clearing streams which are also agricultural drainage ways. It is a separate distinct issue from this issue which is solely related to activities that can take place within critical area buffers being exempt from the provisions of this code.

*Chair Hillers called for a vote the motion passed 5 to 4 with Commissioners Enell, Joselyn, Saul, Dickson and Havens in favor and Commissioners Munson, Hillers, Wallin and Yonkman opposed.*

Brad confirmed staff understands the direction from the Planning Commission would be to provide further clarification on the exemption dealing with agricultural practices and that the language includes specification that an extension to an exemption could be granted such that the total time period not exceed six and half years with written approval from the Planning Department.
Commissioner Hillers asked the Planning Commissioners if there are other topics that they would like to discuss now regarding items heard today.

Commissioner Enell responded to Commissioner Hillers that they have received a lot of public testimony and comments. He proposes to protect the habitat where these species occur and use that as the protection. A way to accomplish the protection is by referring to page 15 of the proposed code. He continued to read the section of the code. He stated he would add a bullet:

- Bullet C – Species listed as endangered threatened or sensitive by the Washington Natural Heritage Program and Department of Natural Resources.

Commissioner Hillers asked Commissioner Enell how the Washington Natural Heritage Program goes about choosing the species and how that is different by from what is listed by the State of Washington and verified by the Department of Fish and Wildlife.

Commissioner Enell answered Commissioner Hillers the change is already there; currently the only way to protect certain species that have been identified in those areas is to have them listed. He would remove them from the category of species of local importance and the standard he would use would be listed by the Washington State Department of Natural Resources, the Heritage Foundation or the Federal Government.

Brad Johnson clarified to the Planning Commission on page 16 under 4 which is all under the general heading of areas which are included under the definition of Fish and Wildlife Habitat Conservation Areas includes areas designated by the Department of Natural Resources through the Natural Heritage Program is high quality terrestrial ecosystems. This language is currently included in the list.

Commissioner Enell asked Brad if it includes the habitat where those species are found.

Brad Johnson replied to Commissioner Enell it would depend on what the definition of what the habitat is for those species and what the boundaries of the habitat of the species listed in the Natural Heritage Program are.

Further discussion regarding the protection of the species under the current code and regulations continued.

Commissioner Enell stated that there are rare prairies that exist in Island County and many people strongly favor protecting. There is fish and wildlife and he thinks it extends beyond protecting the habitat that animal life depends upon; it also includes protecting a different species of plant as well. He hopes that within this, any such plant which is listed by other agencies federal or state that Island County would apply that and protect it and not throw it under the category as a species of local importance, which does not protect the habitat.

Commissioner Dickson expressed what the Planning Commission is striving for a way to protect these kinds of habitats that have been heard about and the testimony has addressed, mainly the prairie woodlands, the prairies and other habitats, to the extent to protect those eco-systems, even though they are small they will protect the plants and give refuge to the various plant species and...
so forth. Certainly any of those small parcels that are in Island County do provide protection for certain kinds of wildlife. Wildlife is not only large four legged, warm-blooded animals; it’s a lot of different things. He thinks the goal that he would have is to try and protect the eco-system as much as possible.

Commissioner Hillers stated that she has lived her entire life on prairies and does not see a mechanism that would be put into the ordinance if it is privately owned land. What she hears people say is that they will remove those plants from their lands because they do not want to be told they can’t do things on that land. She has heard that more than once by people that have Golden Paintbrush, Blue Flag Iris or they will not plant that as an ornamental because then someone will be telling them what to do with their land. She thinks the Planning Commission needs to be careful that they figure out how they agree with a goal but this may not accomplish the goal. She also stated if this is the goal of the County, how conservation easements on the lands can be created to protect these species instead of ending up with people destroying these eco-systems because they do not want to be overregulated.

Commissioner Munson asked staff if what is being presented is enforceable.

Brad Johnson replied to Commissioner Munson that the critical area regulations as proposed regulated things that are threatened endangered or sensitive as listed by a state or federal agencies and areas with which those things have primary association. The regulations as proposed also protect habitats and species of local importance, those are the things listed in the code or subsequently nominated by the public. They also protect things that are listed in the Department of Natural Resources, Natural Heritage Program; those regulations are in the books or would be and would be enforceable. Earlier he was expressing based on the current regulations it is very difficult to enforce them all. There are frequent comments saying that the regulations are not enforced and he agrees that is the case, unfortunately what he does not agree with is that more regulations is the route to better enforcement. There is one planner who does code enforcement on both Whidbey and Camano Island, when violations occur and they are known violations it often times takes a long time before anything can be done. From staff’s perspective things which are clearer and more easily understood are preferable to things that are not.

Commissioner Yonkman likes what Commissioner Hillers has said and would like for staff to create some language they can all agree with. In his experience in the field with dealing with people regarding developing their land as more regulations are added they get more frustrated and angry and tend to do negative things and hide things and he does not want that. Most of these property owners want to comply and need a balance in order to make them want to comply with these regulations. There needs to be a balance of regulation and flexibility. There is a struggle for flexibility and specificity. Property rights need to be recognized and people’s ability to use their land but there is also an understanding in protecting the environment. He just hopes staff hears what the Planning Commission is saying and make an attempt at adjusting language.

Brad Johnson added to the discussion based on what it is that is being worked on, which is the Fish and Wildlife Conservation Areas Update. This is not the Comprehensive Plan Update and it is not an update of the rural character element of the Comprehensive Plan. This update is
narrowly focused on protecting fish and wildlife habitat. When prairies are talked about, it is important that the central question be is this habitat necessary to support fish and wildlife species that have been identified as being threatened, sensitive or endangered and is this a way to protect those fish and wildlife species.

Commissioner Enell responded to Brad Johnson, it all revolves back to the primary association terminology.

Brad Johnson replied to Commissioner Enell it is his understanding that staff has not been presented with any fish and wildlife species that is dependent upon prairie habitat.

Commissioner Enell noted in light of the fact that due to the appeal before the Growth Board, putting best available sciences into the fish and wildlife and wondered if they can briefly open up and get some comment from the person that brought the suit against the Hearings Board, to add any words that they might have in the discussion.

Commissioner Hillers stated that they had closed the public comment and is Commissioner Enell wishing to reopen it.

Commissioner Enell said that would be his request.

Dan Nickel with the Watershed Company stated that it is not that they are not trying to protect fish and wildlife but part of the code is to protect the federally listed species. It is not an absence of fish and wildlife that are associated with prairies it is those important species that have been designated by state and federal agencies.

Angie Homola from the audience stated point of order that she might address the chair, when the comment period was closed it was with the caveat that the Commissioners would have the opportunity to ask the audience questions and would hope that it was honored.

Commissioner Enell said that he for one would like to have that testimony since that resource is available.

Commissioner Hillers stated she had forgotten they had that caveat. Due to the way the motion was conveyed they will allow Steve to comment.

**Steve Erickson, WEAN, PO Box 53, Langley**

Stated Brad Johnson was ignorant about the Washington Natural Heritage Programs, its functions and the different categories of its designations.

- Washington Natural Heritage Program, Division of Department of Natural Resources is tasked with inventorying Washington’s bio diversity. They are the agency that determines what plant are rare on a statewide basis, what ecosystems are rare, most degraded, least degraded, would need protection. They come out with several different lists. One of the lists is high quality terrestrial and wetland ecosystems. Those are included in the County’s ordinance because they asked the Growth Management Hearing’s Board to order that in the late 1990’s. These are the areas of overgrown forests.
that are large enough so they are viable; these are the best remaining examples of the native ecosystems. There are very few left that are prairies. About 10% of the landscape is wetlands. That is over 10,000 acres in Island County. Prairies by contrast were less than that to start with, no more than 7,800 acres or so. Now areas that still have extent prairie native vegetation on them are reduced to no more that 2% to 4% of that, this is one five hundredth to one thousandth of the land mass of the Whidbey as a whole. These are the very last remnants remaining. Natural Heritage has that list of high quality ecosystems that is very different than their protected species list. The federal government under the endangered species act also lists and protects plants; there is one plant species in Island County that has been listed by the federal government, the golden paintbrush. He does not understand why these species that are listed by the state and federal government are not also included in the category in the ordinance. If the consultants and County staff truly believe the County has no authority to protect rare plants simply because they are rare plants then that list of protected flora should not be on the list at all. That would make the County’s position clear and at one point the consultants proposed a draft ordinance to the Technical Advisory Group that removed all protection for all rare plants. It is clear that the TAG as a whole was opposed to that.

- Wildlife Plants
  - WAC lists sources of information for determining what are threatened, sensitive and endangered species listed by the state and federal governments.
  - Thurston County protected all rare plants. That is a somewhat different issue then whether or not prairies are protected. There can be prairies which are a rare ecosystem with plants that are not rare on a statewide basis, but perhaps are rare locally.
  - There are perhaps 3 occurrences some are on central Whidbey and some on Deception Pass.
  - Prairies, woodlands and herbaceous bogs are listed by the Washington Department of Fish and Wildlife as a priority habitat due to how rare they are.
  - Rare plants on private land would be protected the same way a wetland is protected.
  - Consultants refer to Hearing’s Board decision in 2001, he stated it was grossly misrepresented as well as the finding of the Board in WEAN’s favor, partially. The County was ordered to make a determination on four of the species as to whether or not they should be protected. The County has not done that.

Commissioner Munson asked staff and consultants if these plant species are addressed in the Comprehensive Plan.

Brad Johnson responded to Commissioner Munson that the species are not listed in the Comprehensive Plan.

Commissioner Enell asked staff if they are anywhere in the County code where said species can be protected.

Brad Johnson responded to Commissioner Enell’s inquiry that the list in the code is the list of Habitats of Local Importance and Species of Local Importance of which several plant species
have been previously designated as Commissioner Hillers has pointed out there is the reference to the National Heritage Program which is more general.

Commissioner Enell asked staff if there was a plant species which is listed in the Local Importance category would the habitat of that plant species be protected.

Jamie Hartley responded to Commissioner Enell, how the habitat of a particular species would be defined by soil type, moisture regime, by associated plant community. It’s a little more nebulous than finding wetland boundary which took a long time for the federal government and local jurisdictions to hammer out the methodology for that. There is continued argument almost on a project by project basis sometimes where a wetland boundary is. To define a boundary for a plant habitat and he is not saying it can't be done and Steve Erickson may have some ideas on how that might be done. A person may be doing it on soil type, he points out that much of the prairie soil in Island County is and has been under plow for quite some time which is a big part of the reason that various plant species are very rare and endangered. There is no argument that the species are not rare and endangered or that it is not an important concern for Island County. What is being suggested is that this isn’t the mechanism legally or for purposes of efficiency that will work. The public does not own that plant if there is a federally listed endangered species, if it is a plant unless there is some kind of permitting action or have some kind of federal loan or federal connection, the federal government, it does not have a handle on it. Island County may be the best way to go to incentivize it, create an incentive if they want their taxes reduced. They will come up with an effective management plan for the species and the County will give you a benefit in reduced taxes. There is an additional problem at the County level; there are two different elected officials that have to be on the same page. To suggest that the Planning Department can do it absent the cooperation of the Assessor’s Office is difficult. It cannot be done effectively just through this mechanism.

Virginia Shaddy asked Chair Hillers to allow Marianne Edain to address the Planning Commission due to Public Comments not being closed.

**Marianne Edain, WEAN, PO Box 53, Langley**
She wanted to express her disappointment in Mr. Hartley’s response. She further continued to discuss the importance to protect species and prairies.

Commissioner Hillers asked if they are ready to close the Public Comment Period.

*Commissioner Enell moved to close the public comment, Commissioner Wallin seconded, motion carried unanimously.*

Commissioner Hillers proposed that they need some time for reflection to read the comments and return to do deliberations on the materials that they have been given.

Commissioner Dickson asked staff if there where will be materials in addition to what they already have hand that will enhance their understanding on what is being deliberated.

Commissioner Hillers responded that there were only minor changes that would be made.

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Brad Johnson responded to the Commissioners that the materials that would be considered, that have been presented to the Planning Commission with the addition of the changes specifically requested by the Planning Commission today, that being the change of the motion made earlier in the day.

Commissioner Hillers asked the Planning Commission if there are other changes they would like to see made.

Commissioner Enell asked about Western Toad and that is near the process to be added to the list. He asked if it could be added to the list.

Jamie Hartley responded to Commissioner Enell that the person that would be able to respond to the question was not present in the Hearing today. He then asked if there was a record of the Western Toad recently on Island County.

Commissioner Enell requested staff to look further into the presence of Western Toad.

Commissioner Hiller informed the Planning Commission she would not be present at the June 10, 2014 hearing. She polled the Planning Commission members to confirm that there will be a quorum at the Hearing. She asked that the Hearing be continued until June 10, 2014 since there will be a quorum.

Commissioner Dickson feels it is appropriate to continue to June 10, 2014 unless the staff needs more time to prepare findings of facts and so on.

Brad Johnson responded to Commissioner Dickson he thought that unless the changes that are requested by the Planning Commission change from the direction given today, staff would not need to modify the findings of fact that have been presented. In terms of the changes regarding agricultural extension that would not require a modification of findings of fact just a slight change to one of the pages of the code.

Commissioner Hillers reminded the Planning Commission that they have not deliberated on which of the two buffers will selected.

Brad Johnson added the two sets of findings of facts that were prepared. The exhibits where not attached to the findings of fact for that reason.

Commissioner Enell asked that staff prepare language regarding the protection of the existing prairies.

Commissioner Yonkman asked staff what kind of public outreach mechanisms are in place for property owners to be informed what may be present in regards to wildlife and endangered species. He also stated in thinking about human nature and how can this be made to work; there is the economic element in talking to people with private property, for them to participate in
conservation measures the proper incentives and options are very important to cause them to rise up and want to be a part of this.

Commissioner Munson asked staff if it was known how many property owners would be affected by the regulations.

Brad Johnson responded to Commissioner Munson he did not have the information readily available. There was some research done at one time and he would have to go back through the record.

*Commissioner Dickson moved to continue the hearing deliberations to June 10, 2014 at 9:00am, Commissioner Enell seconded, motion carried unanimously.*

Meeting adjourned at 11:35 a.m.

Respectfully submitted,

*Virginia Shaddy*

Virginia Shaddy