

MINUTES

KITSAP COUNTY PLANNING COMMISSION November 18, 2003

The Kitsap County Planning Commission met on the above-stated date at the Silverdale Community Center, Silverdale, Washington. Members Present: Tom Nevins, John Ahl, John Taylor, Michael Gustavson, and Lary Coppola. Not Present: Mark Flynn, William Matchett, Deborah Flynn and Monty Mahan. Staff Present: Laura Ditmer and Holly Anderson, Secretary.

9:00 A.M.

Vice Chair Tom Nevins opened the meeting

Meeting Called to Order – Introductions

9:05 A.M.

Approval of Minutes

October 21, 2004 Minutes

This item was continued in order to make additional edits.

November 4, 2004

A **motion** was made by John Ahl and seconded by John Taylor that the Planning Commission approve the November 4, 2004 minutes. **The vote: aye-5; against-0; abstained 2. Motion carried.**

Committee Reports

Michael Gustavson

1. Did not have anything new to report as a result of the Urban Growth Expansion meeting he attended.

1 Kamuron Gurol

2 **2.** The Board of Commissioners completed their work at last
3 night's public hearing (November 17, 2003) on the three subarea
4 plans, SKIA, Kingston and ULID #6, text amendments and site
5 specific zoning changes. Some decisions had previously been
6 made at the Board's October 15 and November 10, 2003 public
7 hearings.

8

9 Laura Ditmer

10 Reviewed the decision matrix for the Planning Commissioners,
11 highlighting specific areas and explaining in detail the course
12 taken by the Board of Commissioners. She recapped each site-
13 specific decision, all of which were consistent with the Planning
14 Commission's recommendations.

15

16 Lary Coppola

17 Asked if the Board's decision to defer the Sidney/Sedgwick
18 properties will hold the property owners hostage for yet another
19 year, since they already spent years going through the process for
20 nothing in his opinion.

21

22 Planning Commission members asked Laura Ditmer to prepare
23 and send out a summary of the Board's decisions.*

24

25 Laura Ditmer

26 Continued on highlighting the Board of Commissioners' decisions
27 on the three sub-area Plans and the Interim Rural Forest
28 components of the Comprehensive Plan amendments. Some
29 additional issues covered include: 1) Arborwood being approved
30 for 337 acres as Urban Reserve. 2) After going through the
31 Planning Commission process, it was discovered that the
32 Kingston population allocation had not been thoroughly
33 analyzed. The Board then went back to re-analyze the numbers
34 and adopted 640 for the period 2004 to 2017, with no
35 implementing regulations. 3) The Master Planning component
36 was approved for ULID#6. 4) Based on testimony received, the

1 Board made amendments and specific changes and approved
2 proposed hybrid language for Interim Rural Forest. Some
3 changes included: 20-year period increased to 40 years,
4 simplified language on vegetative buffers for clustered
5 development, enhanced language calling for monitoring
6 requirements and a threshold established for a stop and assess
7 report. Clustering options were approved at a minimum 1 per 5
8 acres in clustered areas and 1 per 2.5 acres on shoreline areas.
9 The decision includes a threshold for monitoring after five years
10 or 10,000 acres of using the clustering option has transpired.
11 The County will stop processing further applications and the
12 developer must stop and report back to the Planning Commission
13 and Board of Commissioners to study what transpired on the first
14 10,000 acres and how successful the process was. Staff will write
15 development regulations now that the Board has established
16 policy language. This should be completed by next August.

17

18 Lary Coppola

19 Asked if, that after the five years or 10,000-acre clustering option
20 has been utilized, does everything cease if five years have passed
21 but the developer has only taken advantage of 100 acres for
22 clustering?

23

24 Kamuron Gurol

25 Activity will be reported annually.

26

27 Lary Coppola

28 What about activity other than clustering, such as logging?

29

30 Kamuron Gurol

31 That will be reported also, but the zoning already allows for
32 logging. The Department has been working with the Board to
33 clarify such issues through its work program. Prioritization is
34 critical given the limited staff and resources available. Since all
35 issues are important, it makes it very hard for the Board to
36 choose its priorities.

1 Lary Coppola
2 Wondered if staff is being asked to accomplish more than is
3 realistically possible.

4
5 Kamuron Gurol
6 Difficult for the Department as well as the Board to prioritize
7 issues that meets the needs of the public, the Board and the
8 Department. It appears the Board does look favorably on
9 providing some additional resources. The Department's work
10 program might be a good topic for discussion at the upcoming
11 December 2, 2003 retreat. The Planning Commission can
12 possibly help make achievable priority calls that meet the both
13 the Planning Commission and the Board's expectations.

14
15 William Matchett
16 Expressed concern about the bonus for 2 1/2 acres on shoreline
17 since there was no discussion on the details of this decision and
18 therefore did not go through a public process.

19
20 Lary Coppola
21 That and several other issues are of concern to several of the
22 Planning Commission members.

23
24 Laura Ditmer
25 Asked if the Planning Commission members had seen the
26 comprehensive testimony and decision matrices and explained
27 the format used for each, how the testimony matrix coordinated
28 with the decision matrix and the process for constant updates
29 from the beginning of the Comp Plan amendment process. It was
30 reviewed with the Board previous to the public hearings and the
31 Board was provided with all public testimony submitted as well
32 as summarization in the testimony matrix. Staff reviewed these
33 matrices line by line with the Board before its final decisions. She
34 said these two documents are on the County's Web site.

35
36 John Taylor

1 As a result the last evenings Board public hearing, do these
2 matrices need to be updated?

3

4 Kamuron Gurol

5 It will take approximately a week plus to do this. The Board will
6 make its final decision on December 8, so the update will need to
7 be completed prior to that for a final review by the Board. There
8 are also emails to the Board members that need to be collected
9 and added to the testimony matrix. Staff is in the process of
10 getting copies of these documents.* If Planning Commission
11 members wish to see these documents, staff will provide them or
12 they are available at the Department for public to view and copy
13 if desired.

14

15 John Taylor

16 Requested hard copies of the two matrices for Planning
17 Commission members without computers and the link emailed to
18 the remainder.*

19

20 Lary Coppola

21 **3.** Asked if any of the amendments need to go back through
22 public process.

23

24 Laura Ditmer

25 Any amendments or changes to the Planning Commission's
26 recommendations are put through legal review on an on-going
27 basis.

28

29 Kamuron Gurol

30 The Board has some latitude for changes after reviewing the
31 Planning Commission's recommendations. For instance, the
32 Planning Commission did not make a formal motion on Sharrard
33 so the Board made a judgment call in its decision based on public
34 comments.

35

36 Lary Coppola

1 Question the need for time spent by Planning Commission
2 making recommendations if Board changed them in its decision.

3
4 Kamuron Gurol
5 Suggested discussing this matter at the retreat.

6
7 **Discussion:**

8 On the issue of Board changes to the Planning Commission's
9 recommendations, a lengthy discussion ensued. Comments and
10 concerns included:

- 11 • Non compliance with the Planning and Enabling Act
- 12 • Up and down vote rationale
- 13 • Interaction between Planning Commission and Board
- 14 regarding changes to the GMA and the Comp Plan
- 15 • Wording in the Planning and Enabling Act referencing
- 16 changes made by the Board needing to be sent back to the
- 17 Planning Commission for additional public hearing(s)
- 18 • The need for 5 or more votes at the Planning Commission
- 19 level
- 20 • Prosecutor's Office's awareness of section sited from the
- 21 Planning and Enabling Act
- 22 • Not appropriate for staff to give legal advice
- 23 • Constant consultation by staff with Prosecutor's Office
- 24 • Clarity of the law as written
- 25 • Reason for Board kept record open for public comment as
- 26 long as possible
- 27 • Whether changes in Planning Commission
- 28 recommendations to the Board should be remanded back to
- 29 Planning Commission for further public comment
- 30 • Need for legal advice on whether process by Board is correct
- 31 • Reference to ADUs heard by Board on December 3, 2003
- 32 not being remanded back to Planning Commission
- 33 • Need for legal compliance on all issues because of potential
- 34 challenges to the Board's final decisions

- 1 • If Planning Commission acts in good faith, why have one if
- 2 Board is going to ignore its recommendations
- 3 • Elected vs. appointed officials
- 4 • Reason for separation of powers, especially with a 3 member
- 5 Board for decision making
- 6 • Time constraints against remanding changes back to
- 7 Planning Commission
- 8 • Need to discuss the amendment/remand issue with Board
- 9 prior to January 27, 2004 schedule joint meeting

10

11 A **motion** was made by Michael Gustavson and seconded by
12 John Taylor that the Planning Commission meet with the Board
13 of Commissioners within the next 10 days to discuss the
14 amendment/remand issue and that legal counsel be invited to
15 attend.

16

17 John Ahl

18 Offered a friendly amendment to state “at the earliest possible
19 date.”

20

21 Monty Mahan

22 Asked to see a written opinion first before meeting with the
23 Board.*

24

25 John Taylor

26 Not realistic to get on the Board members’ schedule within 10
27 days.

28

29 Staff will see if it is possible to put this meeting together within
30 the next two weeks.*

31

32 Kamuron Gurol

33 Laura Ditmer

34 Explained remaining scheduled deliberation and decision public
35 hearings on Comp Plan amendment process to be held by the
36 Board.

1 John Ahl

2 Suggested an alternative to scheduling a meeting with the Board.
3 He said if the Planning Commission feels strongly that the
4 process has been violated, the Planning Commission could draft a
5 letter to the Board expressing concerns and reservations about
6 the up-and-down recommendation/decision process between the
7 Commission and the Board. A clearly stated letter would give the
8 Board something to work on regarding the Planning
9 Commission's concerns about bypassing adequate process for
10 amendments to recommendations per the Planning and Enabling
11 Act.

12

13 John Taylor

14 At end of retreat on December 2, can ask legal counsel to draft
15 the letter.

16

17 Kamuron Gurol

18 A letter could be drafted now or after the retreat. Also, another
19 opportunity available for oral discussion would be the Board's
20 work/study on December 3.

21

22 Lary Coppola

23 Would like to read the letter into the record at the Board's public
24 hearing.

25

26 Kamuron Gurol

27 Can do that at the December 8, 2003 Board public hearing and
28 then explained the difference between the public hearing and
29 work/study forums for issues of this nature. Will discuss this
30 issue today with Prosecutor's Office. Importance of issue is not in
31 question, only the timing of this action.

32

33 Deborah Flynn

34 Suggested a more flexible approach avoiding putting the Board in
35 the same uncomfortable situation as the Planning Commission is

1 relative to questioning the correct procedure for amending
2 recommendations.

3

4 Lary Coppola

5 If Board is not complying with law, it is compromising the
6 Planning Commission's role. Asked how the Planning
7 Commission might go about obtaining outside legal counsel
8 advice.

9

10 Kamuron Gurol

11 Gave example of Board's dilemma in the decision making process
12 specifically when a GMA Hearings Board decision affects how the
13 Board of Commissioners may decide on a particular Comp Plan
14 amendment. This causes divisiveness of opinions among the
15 Board members.

16

17 Discussion:

- 18 • Information flow between Board and Planning Commission
- 19 • Both groups having same information before them
- 20 • Feedback loop not always complete
- 21 • Whether stakeholder groups understand why Board decided
22 as it did
- 23 • Suggestion made to stakeholder groups to access case law
24 for background information
- 25 • Executive sessions dealing with conversations such as GMA
26 case law discussions, not open to public and most staff
- 27 • Board can take risk on decisions but also want to listen to
28 the public
- 29 • Perceived lack of public review
- 30 • Before writing letter, need good legal opinion including case
31 law
- 32 • Clarification and review of RCW 36.70.430 and .440 and
33 36.70A.035 §2a and 2b
- 34 • Real issue being latitude and scope of change the Board can
35 make to the Planning Commission's recommendations

- 1 • Avoid retreat becoming a single-topic retreat
- 2 • Topic could just include general procedures
- 3 • Submit issue to Prosecutor’s Office prior to retreat so
- 4 representative of that office is prepared with response

5

6 A **motion** was made by Michael Gustavson that the Planning
7 Commission address this concern at the December 2, 2003
8 retreat and ask legal counsel present to discuss. Letter can then
9 be drafted, maybe by Laura Ditmer.*

10

11 A **motion** was made by Michael Gustavson and seconded by
12 John Taylor that this issue be added to the Planning Commission
13 retreat agenda and that legal counsel be consulted prior to the
14 retreat. A letter can then be written following the retreat
15 discussion.* **The Vote: Aye-8; Against-0. Motion carried**
16 **unanimously.**

17

18 Lary Coppola

19 **4.** Port Orchard planning process committee meeting looked at
20 different neighborhoods this time.

21

22 **Regulations for Agriculture and Equestrian Activities**

23

24 Eric Baker

25 Explained the proposed regulation revisions, the result of a 16-
26 month process. The County noticed some inaccuracies in current
27 regulations so a committee was formed to discuss these
28 questionable regulations. An open house was held first and the
29 Committee met eleven times that included time for public
30 testimony. Out of this process evolved the recommendations
31 before the Planning Commission today. He noted that these are
32 replacement regulations, new but not additional. Explained the
33 range of replacement changes and that the changes will
34 ultimately be site-specific analysis for specific issues such as
35 number of livestock.

36

1 Kamuron Gurol
2 Today is a briefing session to be followed by a public hearing
3 before the Planning Commission at a later date.

4
5 Eric Baker
6 Proposals presented would change bulk regulations on animal
7 densities table. For each area addressed, Eric listed new
8 proposed changes in addition to what currently applies.

9

10 Discussion:

- 11 • Bulk relative to acreage
- 12 • Conservation District Farm Plan requirements
- 13 • Bulk regulations vs. Farm Plan and which is best suited for
- 14 particular situations
- 15 • Number of units
- 16 • Setback requirements
- 17 • Open House success
- 18 • Grandfathering established uses
- 19 • Removal of word commercial from stables to state “riding”
- 20 • Permits needed
- 21 • Wanting to hold public hearing in January
- 22 • Zoning regulations, density increases and associated
- 23 problems including noise issues
- 24 • Roosters, peacocks, associated regulations and
- 25 neighborhood noise problems
- 26 • Setback criterion
- 27 • Conservation District and Cooperative Extension roles
- 28 relative to animals
- 29 • Equestrian activities vs. setback regulations

30

31 Eric Baker

32 Will respond to any questions between now and time of public
33 hearing.*

34

35 **Accessory Dwelling Unit Discussion**

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Mark Grimm

Present to answer any questions or provide clarification on this issue.

Discussion and Questions

- Per RCW, what regulation would pertain to restriction of ADUs in any way?
- Kelley Robinson was asked what constituted conforming and non-conforming lots. Understanding that ADUs are allowed on 10 acres or more in rural residential zones.
- 10 acres incorrect; it is 5 acres.
- State law vs. 10-acre issue.
- Inability to obtain request for production of State law addressing ADUs on non-conforming lots.
- Planning Commission’s vote that ADUs would not be allowed on non-conforming lots when not attached to residence. The Board limited this recommendation.
- Violation of setback requirements.
- Conditional Use Permit application goes through Hearing Examiner process. Hearing Examiner prohibits CUP in any zone without variance approval.

Kamuron Gurol

Explained difference between a variance and a Conditional Use Permit. ADUs have required CUPs in rural areas for some time. Understands Planning Commission recommended ADUs not be allowed on non-conforming lots in rural areas. Commissioner Endresen suggested the word may be added to preclusion without a variance. Still need to apply for a CUP. Development Code amendment Board public hearing will be held December 3, 2003 when this will be discussed.

1 Discussion:

- 2 • Again, issue of change to Planning Commission
3 recommendation without a re-hearing
4 • Variance requirements
5 • At this time, is there a backlog of ADU requests being held
6 up by the Planning Commission and the Board of
7 Commissioners? If not, might be good issue for Board to
8 send back to Planning Commission for further analysis and
9 up-dated recommendation
10 • Concern over impact on Buildable Lands report

11
12 **Deborah Flynn left meeting at 11:35 AM**

13
14 **John Taylor left meeting at 11:35 AM**

15
16 Lary Coppola

17 Asked staff to relay this request to the Board on December 3,
18 2003.*

19
20 **Countywide Planning Policies (CPP)**

21
22 Kamuron Gurol

23 Explained Countywide Planning Policy packet to the Planning
24 Commissioners, including an executive summary with briefing
25 material for the Board to consider at last Wednesday's
26 work/study session, schedule for different elements, what has
27 been done and what is left to do. He said this topic is not subject
28 to Planning Commission review but is processed through Kitsap
29 Regional Coordinating Council (KRCC) then forwarded to the
30 Board of Commissioners for action. The policies apply to the
31 County and its cities. Each Comp Plan must be consistent with
32 CPPs. Key revisions to note: Centers - urban center for
33 Silverdale's urban core, Regional Industrial Center in the SKIA.
34 End of next year is deadline for courts to take action and for
35 KRCC to recognize these two additional centers. Designation of

1 Centers must meet PSRC criteria. Looking for consistency across
2 the four major counties. Need more consistent criteria.

3

4 Lary Coppola

5 Asked why Kitsap is being asked for consistency with larger
6 counties.

7

8 Kamuron Gurol/Laura Ditmer

9 The revised list is intended to be consistent with PSRC criteria
10 and explained PSRC criteria used for centers.

11

12 Discussion:

- 13 • Possibility of Sidney/Sedgwick property being rezoned then
14 annexed into the City of Port Orchard
- 15 • Possibility low through KRCC but possible through Kitsap
16 County. Depends on consistency of PSRC criteria across the
17 four large counties
- 18 • Competitive process for transportation funding
- 19 • Urban centers want pedestrian-friendly centers
- 20 • Competition for transportation funding
- 21 • Silverdale barely met criteria
- 22 • KRCC recognition of Navy housing and importance of
23 coordination with the Navy
- 24 • Roles and responsibilities of Tribal governments
- 25 • Toll roads
- 26 • Population projections and distribution of work program
- 27 • 70-30 population rule
- 28 • Urban vs. rural population projections

29

30 John Ahl

31 Asked to see ranges and tables for population numbers. Not sure
32 where numbers are located. Asked that this be presented to
33 Planning Commission in the future.*

34

35 Laura Ditmer

1 Will give presentation on population allocation after first of
2 2004.*

3

4 John Ahl

5 Asked to see the need for re-designation in an area. Under
6 impression there needed to first be a population projection. If
7 this is not the case, need to know.*

8

9 Kamuron Gurol

10 In-depth discussion is needed to see how the projection is
11 developed. There is accommodation vs. what the policy makers
12 would like to accommodate. How large Kitsap wants to grow
13 must be balanced with GMA regulations. Must prove can achieve
14 population projection. There is a large range and Kitsap can
15 choose within that range.

16

17 John Ahl

18 What component of population allocation can Planning
19 Commission use in deliberations and recommendations?
20 Important to determine how the county will grow and develop.
21 Planning Commission is a part of the decision-making process in
22 both urban and rural unincorporated areas of the County.
23 Concern is that some communities do not want growth while
24 others want nothing but growth without capacity to
25 accommodate. Both create unique problems. How does each
26 individual community's needs affect the entire county analysis?

27

28 Michael Gustavson

29 Asked if County has accurate count of what properties are
30 available for building sites to which Kamuron Gurol referenced
31 the Land Capacity Analysis.

32

33 Discussion:

- 34 • Buildable lands
35 • Starting with UGAs then moving on from that point
36 • Population forecasts from KRCC

- 1 • Population range comes from State office of financial
- 2 Management
- 3 • Distribution of population numbers
- 4 • Justification for population requests yet not going below or
- 5 above top of range
- 6 • Problems associated with accommodating areas for
- 7 population numbers
- 8 • Burden of assigning numbers
- 9 • KRCC Website shows analysis

10
11 **Old Business**

12
13 NONE

14
15 **Other**

16
17 1. Master Planning Ordinance

18
19 2. Retreat Agenda

- 20 • Distributed

21
22 **Exhibit No. Description**

- 23
- 24 A. Meeting Agenda for November 18, 2003.
- 25 B. Legal notice for November 18, 2003 Planning Commission meeting
- 26 C. Proposed Agenda for Planning Commission Retreat – Based on draft submitted
- 27 by John Ahl
- 28 D. Executive Summary for Countywide Planning Policies
- 29 E. Proposed Agricultural-Equestrian Regulation Revisions, 11/12/03-Eric Baker
- 30 F. Element B. Countywide Strategies to Designate Centers
- 31 G. KRCC Population Distribution Work Program
- 32 H. Planning Commissioners Journal

33
34 MINUTES approved this _____ day of _____, 2004.

35
36
37
38 _____
Lary Coppola, Chair

39
40 _____
Planning Commission Secretary

41
42 ***Task List Item**