

**Kitsap County Planning Commission – January 18, 2011**

**MINUTES**

**KITSAP COUNTY PLANNING COMMISSION  
Administration Building – Commissioners Chambers  
January 18, 2011 6:00 pm**

These minutes are intended to provide a summary of meeting decisions and, except for motions made, should not be relied upon for specific statements from individuals at the meeting. If the reader would like to hear specific discussion, they should visit Kitsap County's Website at <http://www.kitsapgov.com/dcd/pc/default.htm> and listen to the audio file (to assist in locating information, time-stamps are provided below)

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**The Kitsap County Planning Commission met on the above-stated date at the Kitsap County Administration Building Commissioner's Chambers, 619 Division Street, Port Orchard, WA.**

Members present: Robert Baglio, Mike Brown, Tom Nevins, Lou Foritano, Linda Paralez, Carol Smiley and Jim Sommerhauser

Members absent: none

Staff present: Jeff Rowe-Hornbaker, David Greetham, Patty Charnas, Scott Diener, and Planning Commission Secretary Mary Seals

**6:03:51**

**A. Call Meeting to Order, Introductions**

**B. Adoption of Agenda**

**A motion is made by Commissioner Sommerhauser and seconded by Commissioner Nevins to adopt the agenda as posted.**

**The Vote**

**Unanimous**

**The motion carries**

**C. Public Comments**

**D. Approval of the October 19, 2010, November 2, 2010, November 9, 2010, November 16, 2010, and December 7, 2010 minutes**

**A motion is made by Commissioner Nevins and seconded by Commissioner Sommerhauser to approve the October 19, 2010.**

**The Vote:**

**Yes: 6**

**Abstain: 1**

**The motion carried**

**A motion is made by Commissioner Nevins and seconded by commissioner Sommerhauser to approve the November 2, 2010.**

**Kitsap County Planning Commission – January 18, 2011**

1 **The Vote**

2 **Unanimous**

3 **The motion carries**

4

5 **A motion is made by Commissioner Nevins and seconded by Commissioner Foritano to approve the**  
6 **November 9, 2010**

7

8 **The Vote**

9 **Unanimous**

10 **The motion carries**

11

12 **A motion is made by Commissioner Nevins and seconded by Commissioner Sommerhauser to**  
13 **approve the November 16, 2010**

14

15 **The Vote**

16 **Unanimous**

17 **The motion carries**

18

19 **A motion is made by Commissioner Nevins and seconded by Commissioner Sommerhauser to**  
20 **approve the December 7, 2010**

21

22 **The Vote**

23 **Unanimous**

24 **The motion carries**

25

26

**6:7:15**

27

28 **E. Election of 2011 Officers**

29

30 **Commissioner Nevins nominates Robert Baglio and Linda Paralez as chair and Commissioner**  
31 **Foritano seconds.**

32

33 Discussion is held about the nominations.

34

35 **The vote:**

36 **Robert Baglio: 2**

37 **Linda Paralez: 4**

38

39 **Commissioner Foritano nominates Mike Brown as co-chair and Commissioner Nevins seconds. No**  
40 **other nominations.**

41

42 Mike Brown is elected co-chair.

43

44

**6:12:59**

45

46 **F. Continuation of Deliberations and Recommendations: Shoreline Master Plan Inventory and**  
47 **Characterization – Patty Charnas, Environmental Programs Manager, DCD and Sue Donahue,**  
48 **Watershed Project Coordinator, DCD**

## Kitsap County Planning Commission – January 18, 2011

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Greetham reviews the SMP Inventory and Characterization process so far.

Foritano asks if during the task force deliberations was any other "peer-reviewed, best science viewpoints" asked for and/or received/considered beyond the singular one used for decision-making.

Greetham states that the task force did discuss the joint meeting in December. The task force does not have any further recommendations for the Planning Commission at this time.

Discussion is held about if the document will be revised again during the entire process.

Brown asks if we are the only ones using drift cells in this process.

Greetham states that drift cells are mentioned in the WAC. He states that Jefferson County has adopted this kind of document using drift cells.

Baglio asks about the prioritization recommendations category.

Greetham states that the WAC makes it very clear the County must consider restoration as one management option when they get down to deciding how they are going to balance the impacts of development with maintaining or improving shoreline functions. In the future they will prepare a restoration report and will consider this and other documents to prepare it.

Sommerhauser suggests changing the title of the heading to "Possible Prioritization Recommendations".

Greetham states that there does not seem to be an objection, but defers to DOE. He clarifies the definition of restoration.

Discussion is held about restoration language in the document and in the process.

**6:26:28**

Brown states that there has been no peer review in this process.

Discussion is held about outside consultants and the science behind the document.

**6:32:35**

Sommerhauser summarizes that they have confirmed they have taken a snapshot in time from now forward. He asks what the WAC requirement or allowance for updating approval beyond this update.

Greetham states that in our view of the WAC he believes they can update. The WAC requires that they acknowledge data gaps.

**A motion is made by Commissioner Sommerhauser and seconded by Commissioner Foritano to continue this item to the end of the agenda.**

## Kitsap County Planning Commission – January 18, 2011

6:36:22

1  
2  
3 **G. Work Study: Non-Conforming Code – Scott Diener, Policy and Planning Manager, DCD**  
4

5 Diener gives an overview on non-conforming code.

- 6 • Reviews the changes and additions
  - 7 • Public Comments so far
  - 8 • Legal Department’s Support
- 9

10 6:51:41

11  
12 **H. Public Hearing: Non-Conforming Code - Scott Diener, Policy and Planning Manager, DCD**  
13

14 Chair Paralez opens the public hearing.  
15

16 **Mike Gustavson, resident:** He references paragraph 17.430.340 – Non-Conforming Structures, third  
17 page paragraph B that states “destroyed by any cause” and “the one year “. He recommends that  
18 they insert the words after the word cause “except in the case of natural disaster as determined by  
19 Kitsap County Board of County Commissioners”. He recommends changing line three that limits  
20 reconstruction to one year, to change it to two years. He states that a good many homes in the  
21 county have non-conforming uses. The vast majority of homes on the waterfront are built within the  
22 100 ft. setback buffer. For the one year he states that he built a house and it took one full year to  
23 build it. He believes that it is not enough time to build a house.  
24

25 Sommerhauser clarifies that the one year is not for completion of the construction, but to submit an  
26 application. He asks if it’s the Building Official or the BOCC the appropriate for the addition of that  
27 language.  
28

29 Rowe-Hornbaker states that the Commissioners have the authority to declare a state of emergency.  
30

31 Gustavson states that the concern he has is the smart growth agenda where the objective is to move  
32 everybody into the UGA.  
33

34 6:58:23

35  
36 **Ron Eber, Rural Stakeholders group member:** He states that he thinks the ordinance is an  
37 improvement from what it was. However, words have meaning, when you deem something in the  
38 ordinance as non-conforming use it is a negative. He suggests policy that states clearly the rights of  
39 existing uses. He suggests change it from “non-conforming” use to “existing use”.  
40

41 **Vivian Henderson, KAPO member:** She states that she agrees with the other two speakers.  
42 Specifically, the language change to “existing use”.  
43

44 **Jackie Rosshorn:** She states that non-conforming means that you can’t rebuild it from an insurance  
45 company. The bank states that they thought it means you cannot get a loan on it in Kitsap County.  
46

47 Brown asks if she contacted a Land Use attorney.  
48

**Kitsap County Planning Commission – January 18, 2011**

1 She states that the bank suggested that. She did not.

2  
3 Chair Paralez closes the public hearing

4  
5 **7:05:07**

6  
7 **I. Deliberations and Recommendations: Non-Conforming Code - Scott Diener, Policy and**  
8 **Planning Manager, DCD**

9  
10 **A motion is made by Commissioner Sommerhauser and seconded by Commissioner Nevins to**  
11 **approve the staff proposed non-conforming code.**

12  
13 **An amendment to the motion is made by Commissioner Sommerhauser and seconded by**  
14 **Commissioner Nevins to change the title from " Non-Conforming Uses and Structures" to "Non-**  
15 **Conforming Existing Uses and Structures".**

16  
17 Sommerhauser states that "non-conforming" is a general accepted legal term of state land use and  
18 activity for if anything in code that moves to enforcement. He does not want to completely remove it.

19  
20 Nevins states that changing it does not solve the problem that banks and insurance companies do not  
21 understand that these are legal structures.

22  
23 Foritano asks what would happen if they changed to existing use. He would rather not give the banks  
24 any option to deny. He asks if it is locked into law.

25  
26 Baglio states that "existing uses" refers to any structure that is up and in use. He states that changing  
27 the title will not achieve anything.

28  
29 Diener states that they have discussed with legal and they state that it is traditional land use language  
30 which is the same language as the state has adopted.

31  
32 **Sommerhauser withdraws the amendment to the motion. The second agrees.**

33  
34 **7:14:15**

35  
36 **An amendment to the motion is made by Commissioner Baglio and seconded by Commissioner**  
37 **Foritano to accept Norm Olson's proposed modifications, to accept the case by case review by the**  
38 **director based on extenuating circumstances, include the earthquake language, and clarification of**  
39 **the paragraph to state that they have one year to submit a building application.**

40  
41 Diener asks if they are suggesting that there be one year to submit a building application and two  
42 years to build it.

43  
44 Baglio states that is sounds like there is one year to have a counter complete application.

45  
46 Diener states that staff would need to re-phrase it so it is clear that the intent is that you have year in  
47 which to apply for a building permit.

48

**Kitsap County Planning Commission – January 18, 2011**

1 Brown states that on Norm Olson’s comments section 020, he expresses concern about putting the  
2 director in a position of having his fingers on all these non-conforming uses.

3  
4 Diener states that the next sentence provides that escape. He agrees that the language needs some  
5 word-smithing.

6  
7 **The vote on the amendment**

8 **Unanimous**

9 **The amendment carries**

10  
11 **The vote on the motion**

12 **Unanimous**

13 **The motion carries**

14  
15 **7:20:43**

16  
17 **F. Continuation of Deliberations and Recommendations: Shoreline Master Plan Inventory and**  
18 **Characterization – Patty Charnas, Environmental Programs Manager, DCD and Sue Donahue,**  
19 **Watershed Project Coordinator, DCD**

20  
21 Greetham states that changing the title of the restoration column is acceptable. He has confirmed  
22 that the document can be a living breathing document as long as it’s understood that it is used to  
23 move forward and it is a foundation for the next step.

24  
25 Sommerhauser asks where it will say that.

26  
27 Baglio states that if there are more steps to the adoption of this it is difficult is when you get to the  
28 regulatory portion and its difficult to adopt without knowing all the components.

29  
30 Greetham states that this is one of several steps. This document will be used in the next step of the  
31 process.

32  
33 Baglio states that he would have liked to have looked at a number of the drift cells as examples and  
34 run through the ranking and criteria. He asks to go through that process moving forward.

35  
36 Foritano asks if any of the major shareholders represented by taskforce members bring in any other  
37 body of scientific research that differed from the scientific anchor that was used for the study; for  
38 example, the report from Dr. Flora.

39  
40 Greetham states that he doesn’t believe there are any other reports. There is a fair amount of debate  
41 on that report and it hasn’t been peer reviewed, but there is a large amount of discussion back and  
42 forth.

43  
44 Nevins states that there is a document that has been accepted by the County Commissioners that  
45 helps the department decide whether or not they have acceptable science in front of them. There are  
46 opinions that are based on science reading that are different from what qualifies as straight science.

47

**Kitsap County Planning Commission – January 18, 2011**

1 **Action Item:** Paralez asks for a simple graphic road map of this entire process, including where the  
2 Planning Commission will be engaged.

3  
4 **7:32:20**  
5

6 **A motion is made by Commissioner Sommerhauser and seconded by Commissioner Brown to accept**  
7 **the SMP Characterization and Inventory document with two changes: 1. the addition in to the tables**  
8 **currently labeled “Prioritization Recommendations” to “Possible Recommendations”, and 2. the**  
9 **addition of an introductory paragraph statement indicating how this document may be updated.**

10  
11 Brown questions the use of prioritization. He recommends “Possible Recommendations”  
12

13 **The Vote**

14 **Yes: 6**

15 **No: 1**

16 **The motion carries.**  
17

18 **7:35:59**  
19

20 **J. Final 2010 Report/Joint BOCC Meeting - Scott Diener, Policy and Planning Manager, DCD**  
21

22 Diener reviews the 2010 Report.  
23

24 Sommerhauser asks for feedback to the Planning Commission work once an item moves forward.  
25

26 **K. For the Good of the Order: Chair Paralez**  
27

28 **Time of Adjournment: 8:07:59**  
29

30 **EXHIBITS**

- 31 **A. Index of Public Comments: Draft Shoreline Inventory and Characterization.**
- 32 **B. Staff Report: Revisions to the Kitsap County Code Chapter 17.460 ‘Nonconforming Uses**  
33 **and Structures’**
- 34 **C. Current County Code Chapter 17.460 ‘Nonconforming Uses and Structures’**
- 35 **D. Draft County Code Chapter 17.460 ‘Nonconforming Uses and Structures’**
- 36 **E. Draft County Code Chapter 17.460 ‘Nonconforming Uses and Structures’ with Norm**  
37 **Olson’s comments**

38  
39  
40 **MINUTES approved this \_\_\_\_\_ day of \_\_\_\_\_ 2011.**  
41

42 \_\_\_\_\_  
43 **Linda Paralez, Planning Commission Chair**

44 \_\_\_\_\_  
45 **Mary Seals, Planning Commission Secretary**  
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