

# MASON COUNTY PLANNING ADVISORY COMMISSION

**Minutes  
September 11, 2006**

(Note audio tape (#3) dated September 11, 2006  
counter (#) for exact details of discussion)

*(This document is not intended to be a verbatim transcript)*

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## **1. CALL TO ORDER**

The meeting was called to order by Chair Bill Dewey at 6:00 p.m.

## **2. ROLL CALL**

**Members Present:** Bill Dewey, Terri Jeffreys, Diane Edgin, Tim Wing and Jay Hupp. Wendy Ervin and Everett Hughes were excused.

**Staff Present:** Steve Goins, Bob Fink, Allan Borden, Susie Ellingson, and T.J. Martin.

## **3. APPROVAL OF MINUTES**

The minutes from the July 17, 2006 meeting were approved as presented.

## **4. NEW BUSINESS**

(#0050) Bill Dewey opened the meeting with a moment of silence to remember the significant events of the day five years ago on 9/11. We will start first with the public hearing on Master Development Plan Regulations.

(#0065) Terri Jeffreys made a disclosure that in her capacity as Government Affairs Director for the Mason County Association of Realtors she helped prepare some of the testimony you will be hearing tonight on both the Master Plan Development Regulations and the Wetlands Ordinance. She further stated that she is fully prepared to listen to all testimony given tonight with equal consideration and no partisan views.

(#0090) Steve Goins stated that this is a continuation from a hearing from July 17<sup>th</sup> regarding Master Development Plan Regulations. Your packet contains the staff report and a number of items. Staff prepared

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revised regulations based on addressing comments that were previously submitted along with public testimony that was given during the July 17<sup>th</sup> hearing, as well as comment letters that were received prior to the August 25<sup>th</sup> deadline that we requested additional written comments to be provided to staff. There are three comment letters that are part of the packet that the staff report does address. Subsequent to the packet being distributed, staff has received three additional written comments that are based on the current version of the regulations that are before you tonight. *(Steve distributes additional comment letters to PAC)*. The comment letters range on a number of topics which have been previously discussed. Staff is available to clarify or further refine the discussion on those topics as you prefer. In the staff report, in addition to a bullet format addressing the various comments in generic terms, there were two items that there never seemed to be a real resolution in the previous hearing of the comments that have been continuing to come up. One of those is density bonuses and incentives for using this program. As you are aware, except for the case of a development that would be proposed as a Fully Contained Community, this is an optional process. One of the desires of the county is to see projects planned under this and one often used mechanism for incentive is density bonuses. Staff did include a proposal where this could be considered and that is something that should be entertained in some discussion tonight. You could either choose to move the regulations forward in the current format which do not provide any form of development regulations outside of what's currently in the regulations, or to introduce something into the regulations as an amendment. There's been some discussion in the comment letters about how that density is determined. We think the language in the regulations is pretty clear. Your density is based on the zoning that your land is in that you're considering to master plan. There's no additional density bonuses other than what's allowed in the regulations for performance divisions in rural areas and your density is based in the underlying zoning. It's that simple.

Another item we should have discussion on is the conversion of roads to county roads as the project is completed. Staff's recommendation was to require all roads to be developed to a county standard, but to provide an option for the developer to allow some or all of the roads to be maintained on a private basis at the option of the developer.

(#0245) Bill Dewey open up the hearing for public testimony.

(#0255) Kristy Buck, from the Mason County Association of Realtors, testified first. She handed the PAC an additional comment letter. She stated that in her original comment letter she stated they expressed their concern that our development regulations are too restrictive to adequately respond to changes in the housing market, mostly precipitated by the GMA's restriction on where and how many houses can be built. Kristy discussed the examples of housing from her original comment letter. She further stated that they urge staff to begin as early as January 2007 development of planned development regulations for smaller parcels of land in the UGA's and in the RAC's. That would give developers the flexibility they need to build the kind of development you see in the handout. On page 3, Minimum Size, has been reduced to 60 acres in the UGA and that's better than the 100 acres. We do thank staff for that change, however, until a new planned development ordinance is developed, this acreage minimum creates a significant obstacle to meeting our housing affordability and supply needs for the future. We still don't have bonus densities as it's written. We suggest a formula be developed that allows a percentage increase in allowed density which corresponds to the same percentage increase in critical area or common open space set-aside. We also urge you to allow at least 40% of critical area space be counted toward common open space.

(#0390) Matt Matayoshi of the Economic Development Council testified next. He stated that he has reviewed the Master Development Plan Regulations and has been involved with staff on the discussion of this issue. He thanked staff for their efforts in putting this together. This will be an important tool that allows us the flexibility to plan and respond to future development opportunities. This process focuses in putting growth into UGA's as one of the goals of the GMA. It also brings certainty to a process by allowing long term vesting. It allows for large projects to occur in a comprehensive manner and insures we have quality development that is appropriate for our community. Matt asked the PAC for their favorable action on this MDP.

(#0450) Dennis Hanberg from Apex Engineering testified that he has been involved with MDP's for about 27 years. He has personally been involved with 9 projects in Pierce, King and Kitsap Counties, as well as the Tri-Cities. Hopefully these slides will offer you some visual prospective of some of the different amenities the projects show. Dennis stated that MDP's have been around for some time. The real focus has been to develop that mixed use product, employment opportunities, multiple housing options, commercial and

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industrial components, recreational opportunities, and more amenities than a typical plat. (*Dennis presented a power point presentation showing various MDP's and their amenities.*) Dennis stated that one of the requirements is having a conceptual plan with signage, on-site and off-site mitigation for traffic, landscape plans, phasing of lots with densities, open space, water and sewer capacity have to be addressed, storm ponds, active recreation amenities, and LID. One of the goals that my clients have sought as they've worked through MDP's is the ability to seek conceptual approval of the large documents up front because there's a lot of investment in infrastructure at the very front part. Dennis estimated to submit an MDP would cost, based on these requirements, somewhere between \$75,000 and \$125,000 depending on the amount of studies that had to be set forth for that particular project. The goal is to try to lock in your on-site and off-site mitigation so you have predictability in what your payments would be on the project as you continue on through development. You need to build the infrastructure and units at the same time. You can't build all the infrastructure before you sell your first lot. There has to be a timing for the developer to be successful.

(#0900) Leonard Smith of PacWest Engineering testified next. Leonard stated that he has worked with staff on this and provided some input. Staff has been very flexible in working to address all of the concerns we have raised. One of the issues that remains unresolved is the issue of density bonuses, which are typical for this kind of project. It gives a lot of flexibility to achieve a number of things that are beneficial to the overall greater community. The greater density will provide for an overall more economic use of the property. That provides for an offset for some of the added expenses that may be required. We encourage you to consider density bonuses and encourage the ability to have flexibility of land use so that things such as commercial can be worked into a larger planned community that would support the community needs. The staff has gone a long ways in trying to incorporate those suggestions to put them before you.

(#1100) Steve Clayton of Belfair testified next. Staff has distributed to you my email with some of the concerns I have regarding this issue. Steve stated he has been on the Belfair Sub-Area Planning Group and dealing with dozens of meetings and seeing over a hundred at the largest meeting with citizens involved in developing the Belfair Plan. Steve stated that his initial problem was the question of why should the largest guys on the block have the advantages over the little guy. However, after heavy review of it, I can see where it might be feasible for LID and for the future planning for larger projects. Steve stated his concern is that it is allowing the developer to override local rules. What the Belfair community put together as a vision for their community with sign standards, fronts of buildings, safety features of buildings, have nothing to with LID. In this proposal, as it's worded, the developer gets the option to bypass that. Steve inquired why should the biggest guy on the block get this competitive advantage, with increased value on his property, that someone with a smaller acreage can't. There's no advantage to the community for the developer to be able to bypass sign standards. Now we're allowing one parcel to have a different set of standards for those signs. Steve recommended to delete that particular section that allows an exemption from the Belfair, Allyn and Shelton areas. As this is written, any development in Belfair would have unlimited density. Steve recommended replacing that language under with 'The maximum density of a project is a sum of the maximum densities of the underlying parcels at the time of MDP application.' If we do bonus densities you can add those on. Steve concurs that bonus densities in UGA's is a good idea. Some of the testimony has been to give specifics. Steve outlined those specifics in his comment letter attached. Steve requested that the original language regarding phasing is reincorporated into the plan. There is no language to ensure the infrastructure and the phasing actually gets put in before completion of the project. In Title 16 for Performance Subdivisions, we do have that language. Reducing parking spaces to 7 feet across is not an appropriate number for today's society. He requests that the original language in the parking requirements be reincorporated into the plan.

(#1480) Bill Dewey thanked Steve Clayton for his thorough review and detailed comments and suggested alternatives.

(#1500) David Overton of Belfair testified next. He stated that he represents his family business, Overton and Associates, who have been in Mason County since the 1920's. We've been in the timber business for a very long time. We've been in the real estate business also for a very long time, but haven't done much other than cut down trees and grow trees on our real estate. A lot of these projects and theories about community planning efforts that we've gone through in the last few years in Belfair have just been that; theories. They've been community processes that get people together that either build community consensus or drive people apart. There are so many different properties that don't conform and don't have

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the ownership and can't be developed in the same way. The MDP process allows for large ownerships under uniform control that actually have a high likelihood of developing. David stated he was saddened to see, during the last planning process in Belfair, was this concept and inflammatory language regarding adult businesses. There aren't any developers in the North Mason area or Kitsap area that are striving to develop adult businesses. When someone brings up the idea that if you provide flexibility in a MDP that people would then be allowed to bring in adult business. It's based on political motivation. The whole theory is that you have a set of underlying DR's and for a negotiated process with the county the developer agrees to go to a higher level; not to be exempted from the current laws. The community gets benefit and the developer gets benefit by having a better project. David stated that he takes personal offense when those things are put in here. The reality of this is that you've got the county on one side with the BOCC and the PAC who will review the plans as they go through this process, along with staff. That's a huge hurdle for the developer to get over.

In Section 17.60.012(1)(B) is one that Mr. Clayton says provides the authority to be exempted from the underlying zoning. David stated that it provides staff, PAC, and BOCC the flexibility to modify something to improve it. We have to build in the flexibility so staff can review it to see if it makes it a better project. That needs to allow for exemptions from the existing code that was written without a project in mind. Phasing, they're great feedback tools. Staff knows this. You either build it in Phase I or you bond against it. It's a negotiation when you actually have a real project on the table. You're got to provide greater community good than the standard regulations, otherwise you wouldn't go for this process because it is more difficult, more expensive, and more onerous. It's not about allowing someone to get something for nothing.

(#1900) Bill Dewey closed the public comment portion of the hearing. Bill inquired of Steve Goins if he had any comments specific to any of the testimony to help the PAC through this.

(#1925) Steve Goins stated that between the comments that were included in the packet and the new set of comments that I just handed out, which I understand you have not had time to review, you've pretty much heard everything that's been discussed. Some of the peculiarities of the flexibility were discussed when he was talking with one of the members of the public. They asked why we would allow someone to deviate from the county standards. I explained, for example, if you had a roadway where the county standards say the lane width is supposed to be 11 feet, but we have an LID process where we're trying to reduce impervious surface and we might want to reduce that lane to 10 feet. Or we might be designing a roadway where we're anticipating high levels of traffic where maybe a 12 foot lane is more safe. The flexibility of this process allows you to make those kinds of adjustments on the fly to address the different elements that are within the project. Our regulations don't allow that as they're written.

(#1988) Tim Wing stated that there seems to be an underlying idea in some of these comments that if you allow for deviation of standards that are set by the community or by the county, that somehow the developer is going to be able to do whatever they want. Tim stated that he does not believe that's the case.

(#2000) Steve Goins stated that is true. That would come before this body as well as the BOCC. Staff would have a tough time defending a project or an element of a project where someone was requesting a deviation where there wasn't a public benefit associated with it. That's not the intent of this process.

(#2040) Bill Dewey stated that he feels in an awkward situation in that we've been handed a lot of fairly detailed comments tonight that we haven't had a chance to consider that we need to from a public hearing standpoint. Bill continued on by saying that we owe it to the people who have provided the comments to either take time this evening to read them, or to continue the hearing so we have time to review them.

(#2080) Jay Hupp added that there's a lot of information that's come in within the last 24 hours that he has not had a chance to digest and intelligently discuss the issue. Jay further stated that he would not want to take time tonight, given the agenda that we have before us, to discuss it. Jay recommended continuing the hearing.

(#2100) Terri Jeffreys stated that she feels the public comment period should be closed, but some more time should be allowed to discuss the issue as it sits with us now.

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(#2150) Bill Dewey stated that PAC can have a discussion here tonight on some of the comments we've heard to perhaps give staff some direction.

(#2160) Terri Jeffreys inquired of the other PAC members what they feel are the proper public benefits to provide that would be rewarded with a density bonus.

(#2180) Bill Dewey inquired of Steve Clayton where his thoughts came from regarding his comments.

(#2190) Steve Clayton responded that it was based on the Public Benefit Rating System that we're evaluating for open space and carrying that over to this process where there's a public benefit and we assign particular percentages of tax reduction for particular actions. That was my concept here.

(#2210) Bill Dewey inquired of the PAC what their thoughts were on bonus densities.

(#2220) Tim Wing stated that he didn't have any problem assigning bonus densities to some degree but he's not sure that getting so specific is the way to go about that. There's other possible amenities that might come up. Tim inquired of Steve Goins how bonus densities are assigned now.

(#2250) Steve Goins replied that the current regulations don't have a density bonus provision other than the performance subdivision regulations for rural development. Typically density bonuses are granted in exchange for providing a certain amenity. The breakdown that Steve Clayton provided is a lot more detailed than you typically find in a regulation. A example would be a portion of the units that were provided above and beyond the regulated density would be for meeting affordable housing standards. Another common feature is providing 'x' amount of open space or common space above what is required. This kind of detail often would lead us into an area where some of the benefits we're providing aren't really matching the benefits that we're trying to establish. And it becomes harder to manage.

(#2300) Tim Wing inquired why there are not bonus densities in the program now.

(#2310) Steve Goins responded that during the public workshop process he initiated the regulations with the thought that we wouldn't provide bonus density but it was open for discussion. There was never really a push on the public side to ensure that the regulations provided that nor was there any direction from someone to provide that specific language. There have been comments along the way to consider those kinds of incentives. Steve further explained that he thought that should come from the public than staff. These last comments have been more specific to that particular incentive side. If we want this development to occur in Mason County, the incentives are rather limited as it's currently drafted.

(#2400) Tim Wing inquired if we have heard any testimony from anyone that is considering doing one of these about bonus densities.

(#2450) Steve Goins stated that he's not aware that someone has provided a specific example. He stated there has been testimony and written comments that other jurisdictions have these provisions and we might want to refer to those, but didn't provide the text itself.

(#2500) Jay Hupp stated that if bonus densities works in the direction of more affordable housing, that needs to come into the picture. He further stated that it's becoming more apparent that the big picture is not necessarily being addressed and how all of the various planning elements that conflict with each other but still have to be accommodated and balanced, he questioned how that balance takes place. We need to balance those competing elements.

(#2550) Terri Jeffreys stated that she's looked at a lot of affordable housing proposals and options and she stressed how difficult and how little success has been met on one's that cap the pricing of the housing if it's not free market oriented. You're asking the rest of the folks in that development to subsidize the price of that unit. It's important to understand that the land price and the size of the lots has a lot to do with the price of that home. She stated that she's not in favor of mandatory price controls on housing units.

(#2600) Jay Hupp stated that he was speaking to more units per acre, which drives the price down.

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(#2620) Tim Wing stated that he concurs with Jay on that. That's the only tool we have; the amount of land you build on is the only control we have.

(#2650) Diane Edgin spoke about adult entertainment. She stated that no matter what this says or thinking that something can go into this, from what she recalls from previous years, we could not legally forbid these things from coming in. We could direct them as to where they could be located and under what conditions they could be operated under. It hasn't been brought up for some time.

(#2700) Bill Dewey stated that he likes Steve Clayton's suggestion for Section 17.60.012(2)(B), which states 'The maximum density of a project is a sum of the maximum densities of the underlying parcels at the time the MDP application'.

(#2800) PAC agreed.

(#2850) Miscellaneous discussion regarding phasing.

(#3000) Steve Goins stated that although bonding is a state law, he could add in that language.

(#3100) Bill Dewey stated that previously PAC had recommended to staff to include the language regarding transit stops. Bill requested staff add the language 'In MDP's proposing 100 residential units or more, provision shall be made for a transit stop with dedicated turnout and shelter'.

(#3200) Steve Goins summarized that PAC is looking for provisions that would allow density bonuses like the concept of linking that to added open space, common space, or other types of amenities.

(#3300) Bill Dewey stated that it would be more appropriate to bring back several options to review.

(#3320) Steve Goins added that they wanted to modify the density provision to reflect the language that was in Steve Clayton's letter. For clarification, that comment doesn't reflect the performance subdivision density provisions that are currently in place, and was their intention to not allow densities under those provisions.

(#3350) Terri Jeffreys inquired if it was possible to reference it, with the exemption of projects utilizing performance subdivision density bonus provisions in that particular part of the code.

(#3400) Steve Goins stated that it was possible to do that.

(#3430) Tim Wing inquired when there is mixed use if there was any specific density.

(#3450) Steve Goins responded that there isn't a cap on the residential density in mixed use designations. You could assign a density cap in areas where there may be ambiguity how much density is allowed in a UGA.

(#3500) Miscellaneous discussion regarding density caps.

(#3600) Steve Goins stated that PAC sounds generally comfortable with the notion that under an MDP, the underlying zoning would be a good tool to use to determine what the density should be as a starting point.

(#3700) Tim Wing stated that he would not be favor of that and the MDP should be thrown out as a proposal and if it means changing the density in an area then everyone should get involved and make a decision about whether that benefits the county and the community. A lot of Steve Clayton's comments are good comments, but a lot of them are based on the idea we shouldn't allow these plans to change anything. The whole idea is to allow the plan to change things.

(#0150) Bill Dewey discussed his confusion over the Amenities section on page 17 and the use of 'shall' versus 'should'.

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(#0200) Steve Goins explained that a development, for example, might include provisions that prohibit RV's from parking on a residential lot. That might be a situation where staff might have a heightened concern over where are the RV's going to park. A project, on the other hand, may have a townhouse project where there's parking provided for those kind of facilities. This was discussed at length with the public and one of staff's concerns was that if there's no provision to provide this type of facility in the MDP, you're almost, by default, requiring it to be put in someone else's neighborhood. We had some concern about prohibiting provisions for parking RV's and the nature of the market would dictate they need to be somewhere so we're forcing them into other communities that may or may not appreciate that. We wanted that to at least be considered.

(#0250) Bill Dewey asked Steve Goins to check the reference at the top of page 17. Bill thanked staff for their hard work on this issue in trying to capture all the comments and the good job they did. Just for clarification, we are closing the public comment period.

(#0290) Steve Goins stated that would be his recommendation also. As you have already discussed, there is a number of items on your agenda for upcoming meetings that should be part of your consideration. At this point we have a lot of elements that are mandated by the state for us to address, so we're running out of meetings. There are a lot of meetings we need to finalize. I could make some suggestions for possible options of when we could bring this back before you. The meeting that might be most appropriate would be the October 2<sup>nd</sup> meeting. That meeting we have scheduled a meeting for the Allyn UGA plan and that's the only item on the agenda as we figured we would have a lot of discussion. That would allow us time to cover both of those in one meeting.

(#0340) Bill Dewey stated that it is appropriate to continue the meeting until October 2<sup>nd</sup>. Public comments are closed. The PAC will continue their discussion on that date. Next we have the public hearing on Wetlands.

(#0375) Bob Fink opened the public hearing on the Critical Areas Ordinance pertaining to Wetlands. You received a packet in the mail with documents on this issue. The county is mandated by GMA to update it's Wetlands Critical Areas Ordinance. Our deadline for doing that is December 1<sup>st</sup> of this year. Staff has finished a review with the help of consultants and after a number of prior workshops, March 20<sup>th</sup>, June 5<sup>th</sup>, and June 12<sup>th</sup>, we have developed a draft based on Best Available Science in trying to incorporate the previous several years of experience the county has had in implementing it's current ordinance. The purpose of wetlands regulations is to protect the value and functions of the wetlands and to preserve that over time to prevent impacts to it that cumulatively would have a significant affect on their survival. The Department of Ecology issued a new guidance document for protecting and managing wetlands. Based on the review we've done so far there are a number of regulations that we are considering updating. The changes are to the wetland categorization and rating, the wetland buffers, wetland mitigation, mitigation banking, isolated wetland exemptions, and danger trees. The wetland categorization and rating that was proposed is to use the DOE system as currently proposed. The most significant changes to the current regulations are changes to the way the wetland buffers are set. They expanded their review of the science on wetlands and they've identified the importance of habitat value the wetland plays in the need for wider buffers. When you have a wetland that doesn't play a large role for habitat, you don't necessarily need as large a buffer. If you have a major habitat function in wetlands the recommendation is for very large buffers; some in excess of 300 feet. Those are areas that are intended to be kept natural. Rather than having a single standard buffer for a single wetland type it allows for a buffer that's more tailored to the actual function and value you're trying to protect. It does result in a much more complex system. There is an evaluation of the habitat value, which was added to the categorization of the wetland that was done earlier. We've also proposed to follow recommendations from DOE which call for adjustments to the buffer because of the intensity of use proposed next to the wetland. Our consultants who have done work in Kitsap County under a system very much like this and done a number of evaluations of wetlands, have found that a lot of actual wetland buffer requirements haven't changed much with the new standards.

The county is addressing wetland mitigation. We're trying to create greater flexibility in mitigation options. Currently the mitigation is limited to wetland replacement and these new provisions would include options for wetland enhancement, wetland restoration, and specifically, provide for offsite mitigation. If a site was too small or too valuable to do the mitigation onsite, it would create the opportunity for people to do offsite

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mitigation. We have also included mitigation banking where people could pool their resources in developing projects where these offsite mitigations could be done.

Another issue is isolated wetlands exemptions. The current ordinance has a number of exemptions for small isolated wetlands. The idea is that they wouldn't be regulated; people could fill them or develop near them if that was their desire without having to provide buffer protection. Kitsap County received their decision from the GMHB on their ordinance. One of the issues that Kitsap County was found noncompliant with the GMHB on was failure to properly protect these resources in the isolated small wetlands. What is the proper balance for protecting these small wetlands? The guidance document is pretty clear. They're not recommending specifically that you totally exempt small wetlands. Every wetland has a value. That, however, is going to be very site specific. Since I sent you your packet, I contacted DOE and got information from them based on what they had sent Kitsap County prior to their adoption of their regulations. (*Bob hands out to PAC that information from DOE*). Kitsap County did not adopt this recommendation. Subsequently the GMHB found noncompliant what Kitsap County did adopt.

The last issue in the amendment is danger trees. These buffers are intended to be kept in natural condition to grow and flourish and that's how they provide habitat and large woody debris to the streams and wetlands. Since we only require people to set back a certain from these buffers, 15 feet, and trees grow taller than 15 feet in Mason County, there's a conflict. The removal of these trees needs to be done in a way that still protects the environment and still protects the function of the buffer. We also are trying to minimize the requirements that we put on people as far as permits. We've proposed to try to allow some removal of up to 2 trees in 10 years with county permits or Habitat Management Plans. We're asking people, however, to plant some replacement trees. The requirements are to plant 6 trees to replace the tree that's being removed which presumably is a fairly large tree. That number came from DNR practice. The expectation is that at least 1 or 2 of them should survive and replace the function of the tree that was removed.

We also discovered from Kitsap County that they have an expedited review process. Since it is fairly expensive to hire a wetland biologist to come and do the evaluation, we were looking for a way to expedite that review and reduce the cost. If people can and are willing to set back equal to the largest buffer that might exist on their wetland, then they do the paperwork but don't have to do the evaluation. It's not in this current draft but we encourage the consideration of it to be added to it. Bob stated that he wasn't looking for a decision from the PAC on this tonight. After hearing all the comments and discussion, we might want to continue it to another meeting.

(#1100) Terri Jeffreys asked Bob to explain the mitigation ratios on page 12 of the document.

(#1150) Bob Fink responded that you have options for mitigation replacement. They're area ratios. For a Category III under Table H, you're doing 2 acres of re-established or created wetlands for the impact of 1 acre. If you're rehabilitating the wetland then you have to rehabilitate 4 acres for the acre you're impacting.

(#1185) Terri Jeffreys inquired as to how that meets the goal which reads 'The overall goal of any compensatory project shall be no net loss of wetlands function and acreage.' She inquired if that was a survival issue.

(#1200) Bob Fink responded that DOE has an explanation for that. It has to do with the loss of function because you're trying to restore or recreate wetland so for years you lose the function of the wetland. It has to do with the successfulness of mitigation. It's not a 1:1 because mitigation isn't as effective as preservation.

(#1235) Tim Wing inquired if you could create that wetland somewhere else, and how far away.

(#1250) Bob Fink stated that the theory is you do it as close to where you're removing the wetland as possible, and preferably in the same sub-basin or basin that you're developing in.

(#1300) Bill Dewey made a notation to Bob regarding the numbering on page 14 of the document.

(#1320) Tim Wing inquired about the mitigation in Table H. He noted that if you create a new wetland you dig a hole in the ground and put plants in there and fill it with water, it's not going to function well at all. He stated that rehabilitating an older wetland would come alive much faster so why would you need 4 acres instead of 2



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in a new wetland.

(#1350) Bob Fink stated that he will review the science on that.

(#1365) Allan Borden inquired since there's 4 different scenarios for each one of the wetlands on Table H when do they apply. Does the applicant whose property has wetlands on it have a choice of re-establishing versus rehabilitating or enhancing, or is a certain activity required?

(#1388) Bob Fink stated that the mitigation sequencing is avoidance, reduction and compensation in that order of preference. These are compensation mitigations. There is discussion regarding the preference. If you're in the category of compensation mitigation then you have your choice as to how to compensate it. You first avoid it so you're only doing unavoidable impacts. Then you try to reduce it then you have your choice of how you're going to compensate. Among the different alternatives for compensation the ordinance doesn't seem to call for a particular preference.

(#1440) Jay Hupp stated that Bob mentioned these changes are based on experience from the county over the past few years and based on motivation that comes out of DOE as a result of their view of BAS. Jay inquired what is it in the county's experience in the last few years that has made it apparent that the current regulations are inadequate.

(#1485) Bob Fink responded that most of these changes have their origin in BAS. The changes in this particular ordinance, the main issue we have that is based on county experience has to do with danger trees. The issues revolving around the removal of danger trees. That needs to be properly controlled without being burdensome. Most of the rest of the changes are changes that were done because BAS has been refined and improved based on the new DOE guidance documents.

(#1555) Jay Hupp commented that the BAS out of DOE, as I understand it, was based on the 120 or 122 cases that they examined which were wetlands that they examined and came up with thousands of pages of justification for the changes that they recommended from the BAS prospective. Jay inquired if any of those wetlands were in Mason County that they examined.

(#1575) Bob Fink responded that he couldn't answer that question. DOE did write a letter to Kitsap County in response to challenges to their science which I could provide to you. The challenge in Kitsap County wasn't just from environmental groups but also from property rights or interested groups. If you have any particular questions we can direct them to DOE.

(#1655) Jay Hupp stated that it may be that the Central Board rejected the Kitsap County revision of their Wetlands Ordinance not necessarily that they're not using the BAS but maybe Kitsap County just didn't make a good enough argument for Kitsap County. Bob, you stated that we're changing this ordinance based upon pressure coming from DOE. What the GMA says is that the ordinances will be applicable and peculiar to the county.

(#1682) Bob Fink stated that we hired a consultant to recommend changes and she recommend that we use the guidance from DOE. With regard to any individual decision of the GMHB, you're quite right. The decisions that come out of the GMHB are typically made for a number of reasons that are specific to a particular set of facts and arguments and have to be used with caution in other jurisdictions. Bob Fink further stated that his point isn't that we have to do exactly what Kitsap County did do or didn't do, but that was an issue. DOE is very clear that all wetlands have value and if you simply can't discount the value without properly documenting the science that allows you to do that. We don't have a study from here in Mason County that documents our wetlands.

(#1750) Jay Hupp further stated that we simply go along with the pressure that comes from DOE because we haven't done the studies that are necessary to counter their assumptions about Mason County. It appears that's what we're doing. If we had the studies done that prove one way or the other how effective the previous ordinance had been then we may or may not agree that the pressure coming from DOE is appropriate for this county. We have a horribly complicated ordinance where there's questions at the staff level and questions at the level of the PAC and certainly there will be questions and confusion at the level of the property owner

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when they try to understand this. What we had before was fairly understandable and this is not.

(#1820) Bob Fink stated that primarily you're talking about the table.

(#1825) Jay Hupp responded that he's talking about a lot more than the table. The issue of who determines and how the determination is made as to what category your wetland is, is almost completely subjective. The average property owner cannot walk out on their property and take this ordinance and understand how it applies to his piece of property. It's just not possible. Jay continued on by stating that his frustration is that these proposed changes are horribly confusing.

(#1885) Bob Fink responded that Jay is right, but no more that anyone could go and design and engineer a building without doing a lot of studying in the modern world. There is a discreet process for doing this. There is a lot of consistency that comes out of the different biologists in rating these wetlands.

(#1915) Bill Dewey agreed with Jay's comments.

(#1940) Bob Fink added that the alternative to this complex system is larger buffers. If it has a big habitat then it has to have big buffers. If it's mainly water quality issues then it doesn't need a very large buffer. That's the distinction that you need to build into the system. The same thing for the complexity that comes out of dealing with different intensities of development.

(#2000) Bill Dewey opened up the public comment portion of the hearing.

(#2050) Rob Drexler from Allyn testified first. He stated that he is representing the Mason County Association of Realtors. *(Rob handed out a comment letter to the PAC)*. Rob stated that the realtors deal with the wetlands all the time. We try to help our clients in trying to figure out the wetland issues. The ordinance is very complicated. Rob stated that he knew of one case where a person was told to move their house 3 inches and where was that border to measure from for 3 inches. GMA has 14 goals that we're supposed to adhere to. There are 2 of them that we've forgotten about. That's the economic development goal and the affordable housing goal. We have property that should be able to be built and can't be because we have to get too far away and that reduces the land supply and in turn draws the prices up. That defeats the purpose of trying to have affordable housing. There is no analysis of what the changes to the regulations would be on the existing land supply. That needs to be done first. The one size fits all buffer averaging doesn't encourage development especially in the UGA's. We need to have slack on Anderson Lake because there's houses all along it. We need to open up the usability of the land within the UGA's. Rob stated that they respectfully request that the public comment period be extended until October 1<sup>st</sup> to allow more thorough review and comment by us and others.

(#2250) Bill Dewey stated that because of that request the public comment portion will not be closed. There was a discussion regarding the rescheduling of the hearing. It was decided that the deadline for comments on the wetlands is September 25<sup>th</sup>. Then the hearing was rescheduled until the 2<sup>nd</sup> of October. There was discussion that written comments only would be accepted until September 25<sup>th</sup> with oral comments closed tonight.

(#2550) Terri Jeffreys inquired for the reasons of the ranges of protection.

(#2565) Bob Fink responded that they're not always looking at the same situation. Removing nutrients and toxins involve slope, soil type, vegetation type and individual scientific studies. Also there's the range of species involved. There's a lot of information about the range of studies in the DOE guidance document.

(#2600) Tim Wing stated that we have a flat rate system and now there's more flexibility and asked if that was a fair comment.

(#2620) Bob Fink stated that yes there were 4 classes of wetlands and each one had a different single buffer requirement. Under the new guidelines the setbacks are more onerous. The recommendations have increased generally but from reviews by our consultants they found that a lot of the actual resulting buffers haven't changed significantly. There would be cases where the combination of factors would lead to more

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buffers or less buffers. The shift is less of an average approach and more of a site approach.

(#2690) Tim Wing stated that he would like to see more information on that. The idea of flexibility is good if it's not going to make all the buffers bigger.

(#2730) Miscellaneous discussion.

(#2800) Terri Jeffreys inquired about critical area maps that could be overlain over the zoning maps to see what the effect on our densities would be.

(#2825) Bob Fink stated that the best map we have is still the US Fish and Wildlife Wetlands Inventory that was done in this county some time ago. The information is not very reliable when you get to a site by site basis.

(#2900) Jay Hupp stated that another issue that's not being addressed here is the impact on property rights. This disregards that. Since you addressed the danger trees, Jay inquired how it was decided that the danger tree must be left in the buffer area.

(#2950) Bob Fink stated that one of the primary reasons for having a buffer is to grow trees and let them fall over and rot and provide habitat and woody debris; they do serve a function.

(#3000) Jay Hupp stated that you're going to take down a danger tree because it threatens a structure. If you happen to fall the tree towards the structure, now you have a tree laying in the front yard you can't take out because the way the regulation reads.

(#3050) Bob Fink stated that you can push it to the side or move it into the buffer. It doesn't have to stay where it lies. Not providing this function is detrimental to the environment. If you're going to preserve these buffers because of their functions and their values then you've got to preserve that.

(#3100) Jay Hupp stated that if you take the typical shoreline piece of property in Mason County, it's got water that drains through it. It might be a wetland or a stream. We have established residences that we now have created fish and wildlife protection areas that cover most of these shoreline pieces of property. What people have to be able to use is also critical areas. More and more we have put people in a position that's totally untenable in order to comply with the regulations.

(#3175) Bob Fink responded that if you look at the guidance document the direction they stated we need to move in is more of a landscape size plan. Right now it's a site by site analysis. With these new changes, you're taking into consideration more than just the site. You're also taking into consideration the immediate habitat and activity with the surrounding areas.

(#3300) Jay Hupp inquired if the insistence that the danger tree be left in the buffer came from DOE.

(#3350) Bob Fink stated that DOE would direct you to hire a biologist to do a plan to show you how to mitigate. The idea of leaving the danger tree was generated by staff as a way to mitigate without having to regulate.

(#3400) Miscellaneous discussion.

(#3500) Tim Wing inquired about the consultant reviewing actions in Kitsap County under these new rules and how many reviews there were and how many revealed smaller or greater setbacks. He asked Bob to bring back that information so it could be reviewed.

(#3550) Bill Dewey inquired what action would be taken if the mitigation is unsuccessful.

(#3600) Bob Fink responded that within the monitoring period you're required to fix it. That's what monitoring is for. The language states that if you monitor it for five years and it's not successful there is authority to continue it as necessary.

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(#3700) Bill Dewey stated that the oral comment period is closed. Written comment is open until September 25<sup>th</sup>, and the hearing is continued until October 2<sup>nd</sup>.

(#3725) Terri Jeffreys talked about the WRIA 16 Watershed Planning Unit and as they move towards implementation of the plan that was approved that there be consideration of how implementation would impact our comprehensive planning effort. She explained it needs to be coordinated and she would like to make sure all the impacts are monitored. Terri is asking that the PAC request that the WRIA 16 Planning Unit establish a position the unit for a PAC member.

(#3800) Tim Wing inquired of Terri is she was willing to be that member.

(#3825) Terri Jeffreys responded that she was willing to be that member.

(#0100) There was a motion, second, and approval to have Terri Jeffreys be that representative.

(#0130) Steve Goins discussed the upcoming meeting dates and agendas. He stated that many of the items we will need to complete are stated mandated. An example of something that is non-mandated but staying on the agenda is the Allyn Plan. We made a commitment to that community that we would finalize their plan this year. We do have a lot of things we're trying to get done this year.

(#0160) Bob Fink discussed the possibility of moving towards e-mailing staff reports to PAC instead of hard copies.

(#0175) The PAC was not unanimous in any decision regarding receiving their packets electronically.

Meeting adjourned.