

# MASON COUNTY PLANNING ADVISORY COMMISSION

## Minutes November 20, 2006

(Note audio tape (#3) dated November 20, 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, Tim Wing, Diane Edgin, Wendy Ervin, and Jay Hupp. Terri Jeffreys was excused.

**Staff Present:** Bob Fink, Allan Borden and T.J. Martin.

### 3. APPROVAL OF MINUTES

The minutes from the September 25 and October 16, 2006 meetings were approved as presented.

### 4. NEW BUSINESS

(#0100) Bill Dewey opened the meeting up to take public comment on the Linda Christenson rezone request. It was continued to this date but later changed without sufficient public notice.

(#0175) Allan Borden asked the people who would like to be notified when the next meeting is to be scheduled on this to please sign the register along with mailing address.

(#0235) Bob Lemon of Harstine Island testified first. Regarding the staff report which recommended approval of the Christenson rezone, it's important to note that the staff report was the work of a single individual and received virtually no other review. We had a meeting with the planning staff and that's what came out of that meeting. We all give a lot of weight to the staff report and a lot of work goes into it but it is the work of one person and the opinion of one person. In approving the rezone, which is an application for nine cabins, if the

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rezone is approved, anything in that rezone would be approved. They can make a change to an RV park if they want. The committee has a difficult job and you're not professional planners but we do turn to you to make a recommendation to the BOCC. We ask you to get things in perspective. You've got the weight of the rezone which will affect people's lives and it is considerable. They don't have a right to the rezone, but they do have the right to ask for one. We have done a petition and I am asking that you include that in your record.

(#0420) Bill Dewey noted that there have been quite a few comments that have been submitted and that along with the petition will be forwarded on to us for the hearing in January.

(#0435) Bob Lemon inquired about the Harstine Island Sub-Area Plan and if the committee members have reviewed that and are aware of it.

(#0445) Diane Edgin stated that it was never carried forward although a lot of the items that came out of that were adopted into the original county Comp Plan.

(#0470) Jim Irving of Harstine Island testified next. He talked about the number of things that could occur under the rezoning. He stated that one of the things you look at is that you do the environmental analysis prior to the approval of a project. He stated that it's his understanding that the SEPA process will happen after rezoning has occurred, and if that's the case is it done on the worst case analysis. The worst case being a gas station with leaking tanks that could affect the cove. It's a big unknown without an environmental analysis not being done before he granting of a rezone. He stated he has read the applicant's application and it is very general and very loose. Taken at face value it's difficult to accept that would be an acceptable practice within the cove area.

(#0550) Della Rogers stated that she has sent in a letter regarding her concerns. She noted that this has a potential impact on us on the Island that is very great. She stated she does not live directly on Jarell's Cove but does live around the corner on the water. There's lots of other 2 ½ or 5 or 20 acres parcels on the Island that are just as suitable for rural commercial / recreational development as this one. You would be setting a precedent if you did approve this. That property is more environmentally sensitive than others on the Island. It would open up the whole Island to rural recreational rather than the rural residential that we now have and would like to keep.

(#0600) Des Murphy stated they own property on the Island. Our residence is in Portland, Oregon but we plan to build within two years a permanent residence there. It's not far away from our property and it worries us. A zone change is a weighty decision and changes the use of that land for a long period of time. The applicants don't seem to have a business plan nor have they planned things out. What if they changed their plans, or went bankrupt, or just sold the land and that would open it up completely as just a new commercial zone lot for anyone to use. We walked around the property recently and saw that a backhoe has been in there to do some trenching and it looks like they may have the intention of changing the course of one of the little streams in there. We want to see the place stay in the same character it is and don't see the need or the feasibility of a commercial zone there.

(#0675) Bill Bush reiterated the SEPA concerns. He also talked about the work being done on the site and what appears to be coming. It was rumored that the work was perk holes and how could they pull off the drainfields that would be necessary for nine cabins in an area that has streams.

(#0725) Nancy Schmidt stated she is worried that if they aren't running it to start with then whoever is running it will not run it like an owner. Since they won't be owing so much on it then they said they could drop their rates and that may bring in the wrong element. If they sell it who knows what the next people would do with it. They may just be in it for the money and just not take care of it.

(#0775) Bill Dewey inquired if there was anyone who would like to testify on the Gary Gribble hearing and no one from the audience wished to testify.

(#0790) Diane Edgin commented to her fellow PAC members that this is a very contentious issue and a lot of people are very concerned about it. She reiterated that when they make their decisions we need to verbalize for the record why we're making our decisions. This goes on to the BOCC and people will have an

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opportunity to testify before the BOCC. So we really need to do our homework.

(#0820) Bill Dewey added that will happen in the record. We don't look necessarily at the specific development proposal for these cabins, but we do look intimately at all the rezone criteria that has to be met and that's what we as the PAC are considering. There will be Findings of Fact that will portray our considerations and be sent on to the BOCC for their consideration. Next we'll have the public hearing on the Critical Areas Ordinance pertaining to Wetlands and Fish and Wildlife Habitat Conservation Areas. We have a number of comments that have come in writing on these issues that we will need to take some time to read tonight.

(#0875) Bob Fink, Planning Manager with the Department of Community Development, opened the hearing. There were original drafts for both the Fish and Wildlife regulations and the Wetland regulations that were dated June 28<sup>th</sup>. Those are the base proposals that were released previously. More recently the county developed, from comments received to date, some revisions which are there for consideration. There is a draft dated 11/2/06 for the Wetlands and it starts with Change #1 that deals with Wetlands. It's based on various comments that we felt needed a response in the form of some amendment to consider. Some of the changes supplement each other and some of the changes are inconsistent with doing another change. The newest draft begins with Change #16 dated November 14<sup>th</sup>. In Fish and Wildlife there are similar drafts and changes. Our hope is that the PAC would be able to make a recommendation to the BOCC today, if possible. Because there is a timeline for making amendments, the BOCC has scheduled a public hearing for this on the 28<sup>th</sup> of November.

There are four comments letters that have come in within the last week and these are comments are from the Port of Shelton, DOE, People for the Puget Sound, and from CTED. Before the PAC takes any action, you do need to make sure you take the time to read those comments. Some of the changes proposed are supported by staff but they didn't originate with staff. Where they're identified as staff derived it's because we took some comment and made some variation on the comment because there wasn't specific guidance on how to do it. People often combine these two in their comments but it may be simpler if we deal with one and then deal with the other. The most concerns seemed to be with the Wetlands section where the most significant changes are located.

(#1285) Discussion that the Wetlands and Fish and Wildlife hearings are still open for public comment as they were readvertised. There was a discussion and it was decided to continue on with the next item on the agenda and come back to these issues. Bill Dewey opened the public hearing for the proposed changes to the Development Regulations for review of New Rural Commercial 5 Zone in the Rural Areas.

(#1400) Allan Borden of the Department of Community Development opened up the hearing. This is proposed revisions to the county Development Regulations and the specific text changes are to Section 1.02.043, Rural Commercial, and then a new Section 1.04.360, Rural Commercial 5 (RC 5). When the BOCC adopted the zoning in March of 2002, some parcels with certain land uses, typically non-residential land uses in nature, were not zoned to an appropriate zone for that existing land use. They were zoned as Rural Residential. Some of these parcels were reviewed by the PAC in July and September of this year and were subject to a public hearing on September 25<sup>th</sup>. The PAC made recommendations on some of those properties but there were a couple of issues that came up in that public hearing that are the subject of this public hearing. There were a couple of properties that had land uses that involved open display vehicle sales. So DCD is proposing this new zone to address five parcels noted that exist where this land use is presently existing. The table on page 3 of the staff report summarizes the five properties that are subject to the new zoning where that RC 5 zone would apply. Staff is making a proposal to establish the zone and make the existing land uses conforming and provide for some expansion of the land use. (*Allan presents aerial photos of those properties and explains their locations*). Those properties include Verle's Sport Center and Marine, Washington Home Center, Sundance Motors, Pickering Marine, and Sun Motors and Marine. *Allan hands out comment letter from Mr. Schreiber of Verle's*. Mr. Schreiber's main concern is on his property he has not only open display vehicle sales and trailers but he also has a sporting goods retail business. He's concerned the retail sales portion of his current land use may be viewed as a non-conforming use. He also has concerns about compliance with indoor and outdoor storage, building size limitations, and signage. No matter if it's RC 3 or RC 5 there is a building size maximum. He already has a building that's existing that he may not be able to expand to any larger, but he would be able to build

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additional buildings of that size limit. His size is already existing and any new sign would have to meet the standards that are the same in RC 3 and RC 5. In response to his concern I have proposed to add a provision addressing retail uses. The new provision says 'Retail land uses which were in existence prior to May 1, 2000 and without a required Special Use Permit may expand up to 20% cumulatively under building size at that date. Expansions of buildings over 20% would require a Special Use Permit.' That's the date in which the county identified Rural Activity Centers, Hamlets, and other isolated commercial around the county.

(#1850) Bill Dewey inquired if the RC 5 was for existing commercial development only.

(#1865) Allan Borden stated that was true and it was to bring them into a conforming use. There will be no new RC 5 zoning in the future, other than existing uses.

(#8980) Jay Hupp inquired if Allan's assumptions captured all the businesses that fall in this category.

(#1905) Allan Borden responded those are all the ones he knows about and he's been around the county for 12 years driving on practically every road.

(#2025) Tim Wing inquired by establishing this isn't it the case that when some business somehow you missed out there meets this same criteria and would we have an obligation to consider that in the same way.

(#2085) Allan Borden stated we won't discount anybody if they inquire about it. We would put that under Section 1.04.367, Special Provisions.

(#2150) Jay Hupp inquired if any of these five businesses requested a zoning change other than Washington Home Center.

(#2175) Allan Borden responded that they didn't.

(#2200) Jay Hupp stated he doesn't really understand how we get to the point that we're rezoning business properties without a request from the property owner.

(#2225) Allan Borden responded that it is based upon the fact that the county is making a proposal to make land uses that are considered non-conforming to the zone to make them conforming. We took that initiative to make that happened.

(#2300) Tim Wing stated that there's two questions here; one is do we want to establish this new zone designation, and do we want to put these five sites into it? That's two separate questions. If we want to establish an RC 5 zone then any one of the five could have that zone changed from that.

(#2350) Wendy Ervin stated that Pickering Marine is in a rural residential zone as is Washington Home Center and those are non-conforming uses that should be cleared up. The commercial zoning with the others does not allow the display of cars, etc., under those commercial zones that they are currently doing business under.

(#2400) Tim Wing stated it doesn't make any sense to make a change without those people being involved with it.

(#2425) Bill Dewey agreed with Tim. He stated looking at the staff recommendations it states 'Following the review of Table 1, this staff report, and public comment, adopt a motion to recommend that the BOCC approve the proposed new zone designations for the five parcels listed in Table 1'. That recommendation doesn't include actually creating the RC 5 zone. That should be two separate actions here by creating the opportunity by establishing the RC 5 zone and then asking the five properties that would qualify if they're interested in becoming conforming uses.

(#2475) Wendy Ervin inquired if Allan had been in touch with Sundance Motors, Pickering Marine, or Sun Motors regarding this issue.

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(#2485) Allan Borden stated that he has spoken to them and written letters with no response from Sun Motors.

(#2500) Miscellaneous discussion about signage.

(#2550) Jay Hupp stated that in spite of the fact that this new RC 5 is being created and has a sign standard is the Washington Home Center sign is okay?

(#2600) Allan Borden stated they could propose to make it conforming but it's unclear if the county has the authority to take a non-conforming structure and make it conforming.

(#2675) Tim Wing inquired if the sign could be grandfathered in.

(#2700) Allan Borden stated that it could, along with Verle's retail store.

(#2720) Bill Dewey open the hearing up for public testimony.

(#2750) Arnie Schreiber of Verle's testified. Realizing that we're a retail store and we're RC 3, and then turn around and say we have a new need for a display designation and he stated he doesn't understand why you can't say in RC 3 that you can have an outside display with some approval process. Why not incorporate RC 3 uses into RC 5? Don't restrict what they can do now or plan to do with their land. I thought we were taken care of and now we have this restriction and that's what I call it; it will limit what I can do with my land. Arnie Schreiber inquired about building restrictions under RC 5.

(#2845) Allan Borden responded that the new building size maximum is 7,500 sf, and existing buildings could be expanded up to 20%.

(#2875) Arnie Schreiber stated that it doesn't cover the building he had in his original plan.

(#2900) Allan Borden stated it does not.

(#2915) Tim Wing inquired if he could build a third 7,500 sf building.

(#2935) Allan Borden stated that he could but he would have to meet the floor area ratio.

(#2940) Wendy Ervin stated that he said he had a plan approved by the county, and inquired if this RC 5 and the restrictions mean that you are negating the plan and agreement that he already had with the county.

(#2950) Allan Borden stated that you have to have a building permit. He has a site plan that shows a building but it was never approved.

(#2975) Wendy Ervin stated that it would seem when somebody comes in and has a site plan ... we look at these site plans for the rezones and say, based on the plan, if it will work. If he brought a plan to the county and the county said okay, it seems it's bad faith to then change the rules and regulations.

(#2975) Allan Borden responded by stating that we're not changing the rules and regulations. You only get a building of a certain size if you applied for a building permit. That's the way it's always been. You can't have somebody who has a piece of paper that says in 1967 I had this building that I wanted to build and if there's no evidence of an application to build it you can't issue a permit or allow someone to build it.

(#3000) Bob Fink added that the only place the county has a binding site plan is in the Belfair and Allyn UGA's. It shows where future development is going to happen. What was submitted was a site plan required for a building permit. The site plan is approved or not approved depending on its compliance at the time that its applied for. It remains vested for as long as the permit is good.

(#3050) Miscellaneous discussion.

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(#3300) Bob Fink stated he can build a building larger than 7,500 sf with a Special Use Permit. It's always possible to apply for a variance from the code.

(#3450) Miscellaneous discussion regarding blending the RC 3 and RC 5 zones.

(#3550) Allan Borden stated that RC 5 is a more visible land use, with open display sales. By putting that in a RC 3 you're going to increase those kinds of land uses around the county outside the UGA's.

(#0035) Chuck Hampton of Washington Home Center stated that the county has to come up with a system that addresses problems. We started this process in 1999 and 2000 with trying to make sure we were commercial. Then over the years we got changed to rural residential. We were the first and only ones to apply for this change, but that's the process. The county is trying to recognize that there's five properties that this would alleviate their non-conforming uses. We want to support this. As far as the signage goes, if anybody talks to our company, we can address any of their concerns with the signs. The way they've expressed it, we can have our sign until we try to change it, or replace it, and then we would have to meet the new codes. We support RC 5 and we think it is a great deal. In the year and a half we've been dealing with this no one has come forward except Mr. Schreiber.

(#0125) Dudley Cooney of Pickering Marine testified next. He stated he was pleased to see there finally might be some opportunities to address our existence as non-conforming. Moving forward with this would help small businesses secure financing and other securities that we are now unable to do. Allan has done a good job of trying to pick up the loose ends that were existing after the GMA was adopted. In the rural area there is a need for some type of zoning that will cover the uses such as those being discussed tonight. I encourage the PAC to move forward with this and get this addressed so that we can all plan accordingly.

(#0185) Diane Edgin stated that it's important to note that these aren't really small businesses. There are very big dollars involved in these inventories and they generate a tremendous amount of sales tax for this county and most businesses do not own their own inventory. They have a finance company to deal with as well as their local bankers. We might really put these people in jeopardy.

(#0210) Wendy Ervin stated that because of earlier discussions regarding Washington Home Centers she pulled their tax records and they're not paying on the basis of RR 5. They're paying taxes that reflects the worth of the business they have there.

(#0225) Tim Wing made a motion to send forward to the BOCC the changes that Allan recommended on this memo which incorporates provisions to include retail sales.

(#0248) Wendy Ervin expressed concerns about the wording that was recommended that did not include language about retail sales.

(#0255) Tim Wing added that his intention was to include the retail sales as it's mentioned here but to also include just 'resale sales'. That has to be regarding the building as well as the activity.

(#0265) Jay Hupp seconded the motion.

(#0270) Bill Dewey asked for further discussion. Bill inquired if the motion was to include the request regarding the five businesses.

(#0300) Tim Wing stated that he would prefer to deal with those separately. I will make a second motion to put three of those in there and leave the other two open for people to come in and ask us.

(#0310) Bill Dewey called for a vote on the first motion made. Motion passes to accept the new RC 5 zone.

(#0315) Tim Wing made a motion to approve the rezone of Verle's Marine, Pickering Marine, and Washington Home Center to RC 5 zone designation.

(#0320) Wendy Ervin seconded the motion.

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(#0325) Bill Dewey asked for further discussion.

(#0330) Jay Hupp stated that it makes him uncomfortable to exclude the other two businesses just because they were not here tonight to testify. *Jay referred to the other public hearing where 14 businesses were included in a rezoning without them specifically asking to be rezoned.*

(#0370) Wendy Ervin amended Tim's motion to include all five.

(#0385) Jay Hupp seconded the motion.

(#0400) Bill Dewey stated the motion is to recommend all five businesses to RC 5.

(#0415) Arnie Schreiber asked for clarification on the first motion. If you're not blending RC 3 with RC 5 then you're taking a lot of my options away.

(#0425) Wendy Ervin stated you would have the ability to do outside sales and the ability to have a retail store location at the same place as you have it. Wendy inquired what use was he thinking of in his business plan he feels is not covered.

(#0430) Arnie Schreiber stated that he needs flexibility with the changing markets and conditions. Just combine RC 3 and RC 5.

(#0435) Bob Fink stated that you could have the permitted uses that are in RC 3 and add it to the permitted uses in RC 5. That should meet what your intent was.

(#0450) *Break in meeting for PAC to review RC 3 and RC 5 zone standards.*

(#0550) Miscellaneous discussion about changing zoning without proper public notice.

(#0575) Bill Dewey stated a compromise to this discussion would be to go ahead and create the RC 5 and it sounds like Verle's might be better staying in RC 3. For Washington Home Center and Pickering Marine they're both RR 5 right now and a better classification would be this new RC 5. They're here requesting that so maybe the motion would be to specifically move those two to RC 5 and if the others want it they can come and ask for it.

(#0590) Jay Hupp agreed that would be a better solution.

(#0600) Miscellaneous discussion.

(#0650) Tim Wing stated he would be in favor of moving Pickering Marine and Washington Home Center into the new RC 5 designation and be done with this tonight and let the other businesses take a look at what they would like to have.

(#0675) Jay Hupp seconded that final motion.

(#0685) Bill Dewey stated for the record that motion is to recommend Pickering Marine and Washington Home Center going to RC 5. The vote was taken and the motion passed.

(#0700) *Break in meeting.*

(#0810) Bill Dewey reopened the public hearing on the Critical Areas Ordinance for public testimony.

(#0825) Bryan Allen from the Puget Sound Restoration Fund, which is a non-profit that works regionally to restore marine habitat, testified. He stated they've been focused on the native Olympia Oyster. In the draft there's a designation of protection for particular marine habitats in the Fish and Wildlife Habitat Conservation Areas. He talked specifically about the shellfish resource in Case Inlet. This is in addition to the significant

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commercial resource that exists there and the important recreational access to shellfish. This is a resurgent population of the native oyster conservatively estimated at 25 million animals by the University of Washington scientists who have been studying the population of this spot. Large contiguous groups of native oysters are a rarity in South Puget Sound. As it relates to the CAO, nutrient pollution from upland developed areas is one of the greatest single risk to marine species in Puget Sound. Careful planning of new development is imperative to reducing nutrient pollution. Natural vegetative shorelines are also important and he urges the PAC to review carefully the written comments submitted from the People from Puget Sound and keep in mind the rare oyster population in Oyster Bay.

(#0920) Tim Wing inquired where the oysters are in danger.

(#0925) Bryan Allen responded they live low on the tides so they're only exposed to extreme low water. Geographically it's centered around where the power lines cross over the bay, adjacent to Allyn. At low tide the whole area goes dry at about minus 1 or 2. They attach themselves to shell fragments or gravel or to each other.

(#0975) Tim Wing stated that at extreme low tides there's a hundred people out there digging around the beaches, mostly looking for clams and some goeduck. He inquired if there is any effort to curb that.

(#1025) Bryan Allen explained that sport harvesters of shellfish cannot legally take native oysters. There's a defacto protection placed around oyster harvest in that there's a size limit. They don't differentiate species in the sport regulations. You can't take oysters smaller than 2 ½ inches and that protects the native oyster as they rarely get larger than that.

(#1100) Jeff Heinis, Skokomish Tribe Biologist, testified next. If you have a home on each side of you you're supposed to be able to average it out but on Hood Canal so many of the homes are built out on bulkheads and it's impacted the habitat. To allow that would be another negative affect on the habitat.

(#1190) Tim Wing stated he grew up on the canal and lived there when they put up all the bulkheads and they didn't think a thing of it. If we had it all to do again they wouldn't allow any of those bulkheads on the Canal.

(#1200) *Break in meeting for PAC to review comment letters.*

(#1240) Bob Fink opened the discussion on Wetlands stating that Lisa Berntsen, of Geo Engineers, will also be making comments on the proposed changes.

(#1300) Lisa Berntsen stated based on the comments received from the public and resource agencies we took a look at the Wetlands Ordinance and thought about how those suggested changes might be added or clarified. Change #1 was actually a correction to the Wetlands definitions. We added the word 'intentionally'.

(#1400) Wendy Ervin inquired if these intentionally sites were counted in an inventory of wetlands.

(#1415) Lisa Berntsen responded that none of our wetlands have been inventoried. Change #2 has to do with exemptions. We had some exemptions in your ordinance that DOE did not deem right so they provided some substitute language to deal with small, isolated wetlands.

(#1444) Bob Fink added that Kitsap County had found that they needed more limited range of exemptions and this is language that DOE proposed consistent with their guidance.

(#1475) Lisa Berntsen continued on with Change #3 was fixing a typo. It should read 'The construction of trails'...

(#1500) Wendy Ervin noted that on page 2 and 3 the categorization for the wetlands needs to be consistent.

(#1525) Lisa Berntsen talked about danger trees. There were some changes requested by F & W (#4) and a modified change proposed by Jay Hupp (#5) and a change by staff (#6). Change #7 was a clarification that



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was requested by DOE that says that if the land sits around for a long time it doesn't retain it's exemption status. This is following federal practice. Under Change #8 we did the math within the different buffering categories so you don't have to add 15 feet minus 25 feet. Since we modified the buffer widths, DOE had a comment that the special setbacks on page 15 didn't apply anymore and they're right so we took that out. Change #10 is a very large suggestion by DOE. We had some language in there which talked about scenarios when wetlands, width averaging could occur and they had some different suggestions that we added. Change #11 is a variation of that that Geo Engineers proposed.

(#1700) Wendy Ervin stated that she found consistently that the GEO Engineers's suggestions were the most useful and in the best format.

(#1750) Lisa Berntsen talked about Change #12 proposed by DOE to add some more definition in the trails and what they should be as far a permeable surfaces and how wide they should be.

(#1775) Bill Dewey noted the Port of Shelton offered on comments on Change #12 in that the City of Shelton has 4 foot widths and this says 5 foot widths. They were suggesting using ADA standards and be consistent.

(#1785) Lisa Berntsen explained that ADA standards is sometimes difficult for a wetland or wetland buffer because you have to be very careful with grade and surface and sometimes if you have a trail and a wetland it restricted movement of animals. However, there should be consistency. Change #13, DOE was not in favor of the existing language in the ordinance that talked about commercial timber cutting and they just wanted that all stricken. Change #14 is about alteration of wetlands. Some of the agency comments talked about trying to provide additional opportunities for properties within the UGA's. We tried to draft some language that provided a couple of different options. If they were doing a large landscape analysis of the region and this parcel happened to fit within that, it would fit within that analysis. Allyn is an example. The second part of the change talked about if you're going to do buffer modification on an urban site you might consider doing additional BMP's on the remainder of that site with special stormwater or native plant landscaping. That's what the next table is about. Change #15 deals with new definitions. The Port of Shelton requested some additional definitions to be added to the definition section of the ordinance so we added those. Change #16 is in response to CTED who found a mistake in the ordinance so we suggested that change to be made. There were some additional questions from staff on Change #17 that talked about where is the opportunity for mitigation of wetland area, which is the buffer.

(#1990) Bob Fink added that WSDOT is looking at this ordinance, and in the case where you're impacting buffers, what mitigation ratio do you use? The intent was that you use a 1:1 mitigation for buffers. If you move 2 acres of buffers then you re-establish 2 acres of buffer in an appropriate place. This is just to be explicit that this be done at a 1:1 ratio.

(#2020) Lisa Berntsen continued on with the last change, Change #18. DOE did not like our Change #14 and they wanted it completely changed to the text you have before you.

(#2040) Bob Fink added that they did not propose this exact text but directed us to the guidance document. This change lays out a process by which people can reduce the buffer that's applied to the high impact use to that of the buffer that's applied to the medium impact use. This can make a difference of 25 or 50 or 90 feet in the width of the buffer and you're still meet the same purposes. Those are shown on pages 12,13 and 14.

(#2200) Bill Dewey opened the discussion with the PAC. All members were satisfied with Change #1.

(#2225) Wendy Ervin offered an editorial change for Change #2. It would read 'No measures to avoid impacts for Category III and IV wetlands between 1,000 and 4,000 square feet will be required if they meet the following criteria:'...

(#2245) The PAC agreed with that edit to Change #2. The PAC agreed with the editorial change for Change #3.

(#2275) Wendy Ervin stated that she took Jay Hupp's suggestion, Change #5, and rewrote it. Her proposed paragraph is: 'A danger tree located in the buffer or wildlife habitat area may be cut down if it poses a direct threat to property and life provided that such cutting is mitigated by planting in the vicinity of the cut tree a

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total of six new trees, each of them a minimum of three feet in height and of the same species of the downed tree or a native species if the downed tree was not native'. Wendy then inquired of Jay his intent for the rest of the text.

(#2320) Jay Hupp stated his intent was to not limit the number of trees that could be taken down in a period of ten years. Jay also stated it is irresponsible to require people to leave fuel loading in an area where there are structures considering fire danger. The plan that did not come before this body that was recently adopted by the county that speaks to the Lake Cushman Community Wildlife Protection Plan. It speaks to this issue. The BOCC are at least concerned enough about this subject to have adopted this plan. We should not be requiring people to leave any fuel loading in the proximity of structures that could come back some day on the county because they were told to leave it there and the house burned down. The distances that are recommended by the forest service recommend anywhere from 100 to 300 feet of clear space around structures to protect them.

(#2500) Wendy Ervin stated she agreed with not adding fuel to the potential of fire. She also discussed the monitoring of the tree cutting and who would do that. It's a regulation that can't possibly be followed.

(#2550) It is noted that the PAC would recommend replacing 'unnecessary' with 'necessary'. The PAC also recommends replacing 'request' with 'require'.

(#2600) Jay Hupp added that if you are taking down a danger tree in an area, you have no business replacing it with six more trees. It has to do with the fire danger. A danger tree can also be a fuel loading to a structure, not just the danger of it falling over.

(#2650) Miscellaneous discussion.

(#2800) Diane Edgin inquired about earlier discussions that included a danger tree to be only about a potential falling tree.

(#2850) Lisa Bernsten responded that was indeed the case. The discussions were always about a tree falling but it was never brought up in the discussions about fire danger.

(#2900) Tim Wing stated this has to do with getting a building permit so if you want to build a house near a wetland, you've got to get a building permit. To get a building permit, you have to delineate the wetland. That's different from shorelines of all types and different from people already living in their house. I have no problem saying you can remove danger trees within 150 feet of your house.

(#3000) Bob Fink stated that DNR uses a tree and a half. The county uses a tree height.

(#3030) Miscellaneous discussion about the danger tree definition.

(#3400) Tim Wing made a motion regarding danger trees to read: 'The removal of a danger tree is allowed. The downed tree need not be left in the buffer if its presence would add fuel loading in the area and thus increase the danger to structures in case of a wildfire'.

(#3450) Wendy Ervin seconded the motion. Motion passes.

(#3500) The PAC agreed with Change #7 proposed by DOE.

(#0020) Wendy Ervin discussed the term 'Wetland Vegetation Areas' instead of 'Wetland Vegetation Buffers'.

(#0075) Jay Hupp brought up the fact that Table 17.01.078 is too difficult for the average citizen to determine what's allowed on that property and what's not allowed on that property.

(#0090) Wendy Ervin inquired if there is a scoring questionnaire for the property owner to use.

(#0100) Bob Fink stated that the state publishes a manual on how to score wetlands.

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(#0115) Bill Dewey stated we can incorporate that frustration into our recommendation to the BOCC.

(#0120) Change #8 was recommended for approval by the PAC. Changes #9 was also recommended. Change #11 was recommended as the appropriate change by Geo Engineers regarding Wetland Vegetation Area Width Averaging. Change #12 by DOE regarding pedestrian trails was recommended by the PAC.

(#0250) Tim Wing inquired about Change #13 and if the timber companies had reviewed it.

(#0260) Bob Fink responded that the timber companies have not specifically reviewed it. The provision was originally adopted as an incentive for people not to cut the buffers in the way that's allowed under Forest Practices and then wait six years and then develop the property. If your intention is to convert the land within six years you go through a Forest Practices conversion. Then the county regulations are applied at the time of harvest. If you go through a DNR permit process, then you cut the area near the sensitive areas according to DNR regulations which are based on the assumption that the land isn't going to be converted to other uses. This language was proposed to give an incentive to people allowing them to harvest to a limited degree in the buffer even though they're converting the property rather than waiting out the six years. It really hasn't been used as an incentive. People have done one or the other. I hate to see it go, but I can't claim that it's been used.

(#0355) The PAC rejected Change #13.

(#0385) Wendy Ervin inquired about the sentence 'Mitigation sequencing should follow the avoidance, reduction, and compensation analysis in that order of preference'.

(#0390) Bob Fink responded that it means that when someone wants to develop their land and they have a wetland and a wetland buffer, if they can develop their property without encroaching on the buffer at all then they should do that. If they need to encroach on the buffer or the wetland then they should do the minimum amount of encroachment that they need to do and mitigate that. That's the preference.

(#0410) Wendy Ervin stated it makes no sense and should be removed.

(#0425) Lisa Bernsten stated that sentence is a sticking point for a lot of the wetland regulators. They like having something to that affect in there. In the big picture you might be better served to try to provide definitions for that.

(#0450) Bob Fink added that we can put in two or three sentences to better explain that.

(#0455) Bill Dewey stated that is a good idea and Lisa's point if well taken.

(#0500) Miscellaneous discussion.

(#0800) Wendy Ervin stated she would accept Change #17 with the following words from DOE: 'Within the Urban Areas, wetlands and their respective buffers may be reviewed by the Director in a larger Landscape Analysis scenario for site specific vegetation area reductions. Examples of this could include a wetland or its vegetation area where its functions are currently compromised and implementation of a mitigation plan would significantly increase the function and value of the wetland system through intense plantings and water quality treatment.'

(#0900) Bob Fink read the revised language for mitigation sequencing. 'If wetland or wetland buffer impacts are proposed a sequence of review must be considered. First the applicant must consider avoiding the wetland or wetland buffer. If the applicant cannot avoid the wetland or wetland buffer, they must consider reducing or minimizing the impact. Impacts that are not avoided must be compensated as provided in the ordinance.' That would be Change #19. Change #20 would be to replace 'vegetation areas' with 'vegetation buffers'.

(#1000) Lisa Berntsen talked about Change #15. These are changes to the definitions as proposed by the

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Port of Shelton. She stated she pulled them right out of the DOE manual. PAC accepted Change #15.

(#1100) Jay Hupp suggested it might be appropriate to ask the question of whether or not we're comfortable in forwarding this wetlands section to the BOCC with the recommendation they adopt the changes that are proposed. Depending on how that question is answered we may save ourselves wading through the Fish and Wildlife section in detail. I'd hate to go through the two hours we've spent on this similarly with Fish and Wildlife to find out that we're simply going to recommend to the BOCC that this is going forward too fast and it can't come out of this body with the recommendation that they adopt it.

(#1190) Bill Dewey suggested seeing if we could get a quorum for next Monday night. *(No quorum available)*.

(#1200) Bob Fink noted that there are fewer and easier changes for the Fish and Wildlife than for the wetlands. Our danger tree section would presumably be the same. You may just want to try to push through and see if you could get it done tonight.

(#1230) Tim Wing stated that he feels the public hasn't had enough time to review it, but at the same time, we might run into some real problems if we don't get it done. Stalling it might not change the outcome.

(#1275) Bill Dewey stated that he's been a little disappointed in the public involvement but we ultimately did get some good input with the Realtors and the EDC. Staff and Geo Engineers has put a lot of time into it and my inclination is to forward it to the BOCC with our recommendation to adopt it with reservations. Jay had expressed that we're forwarding something that is going to be much more confusing to the citizens of Mason County than what we had before.

(#1320) Jay Hupp stated his concerns is that we just add to the problem if we forward this knowing that it's a very confusing document. I don't think the average citizen can walk through it and apply it to their own circumstances. If it takes some time to back and rewrite it in such a manner that it's more understandable then the time ought to be taken to do that. Also, we have increased the regulatory atmosphere within the county pertaining to these subjects without ever properly balancing it in any shape or form against the other elements of the GMA. We do have that obligation. I'm not comfortable sending it forward with what I see is a significant increase in the regulatory environment without questioning whether or not the current environments are accomplishing the objectives that are supposed to be focused on.

(#1400) Wendy Ervin read from Critical Areas: Balancing The Alternatives from CLE. It says that GMA has a goal of protecting critical areas but in a manner that also encourages urban growth, reduction of sprawl, transportation, affordable housing, economic development, property rights, permits, natural resource industries, open space' ... So the critical areas needs, according to GMA, have to be balanced against all these other elements and sometimes the critical areas legally have to take a back seat. 'Some have balanced BAS and critical areas against other GMA goals, while some have tended to treat GMA as a growth limitation act focused principally on limiting sprawl via urban growth boundaries. GMA statute has a much more comprehensive focus.' *(Wendy continues on with quotes)*. Jay is saying he's uncomfortable and doesn't feel we've gotten it all worked out, and I'm saying there's a lot of legal issues that would support his discomfort. Jay is not out there in a limb all by himself. These are references from Washington State.

(#1535) Tim Wing stated you have to balance those issues with the political reality of the state and recognize that we're probably not going to win points of view that you and I might share with Jay. In my opinion, when you balance all that out, the best course of action is to put this on the Commissioners desk and go forward.

(#1575) Diane Edgin stated she can see some areas where the contentions lay, but we do need to go forward. You have to look at the sentiment even outside the county and we know we have some critical problems and we're not dealing with it.

(#1635) Wendy Ervin stated that if we find we can come back and revisit this and change it if something is truly not going to work and is really damaging.

(#1645) Jay Hupp stated this is a revisiting and it tightens the noose without examining what we've already done. Maybe it's time to vote on whether or not we forward this and then address the next issue.

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(#1700) Tim Wing stated one choice we have is to present this as a recommendation with reservations and express our concerns to the BOCC. It's really up to them to make the final call and by stating we feel this has not been aired out well enough and that it does crank down the regulatory environment and it doesn't deal with many of the other issues with the GMA.

(#1750) Wendy Ervin added that it hasn't been balanced against the needs for housing and other things as the GMA says.

(#1775) Bill Dewey stated the motion would be to move the Wetlands Ordinance forward to the BOCC with recommendation to adopt the changes, acknowledging that we have reservations in that we made the ordinance more complex for citizens to understand, and further, while it may reflect BAS we have reservations in proposing changes when application of the current ordinance has not been evaluated. Additionally this has not been balanced against other provisions of the GMA.

(#1820) Jay Hupp stated that he has some difficulty in forwarding something with the recommendation that they adopt it, however, here is all the reasons you shouldn't adopt it. With all those caveats it would be more appropriate to forward it to them without a recommendation one way or the other.

(#1900) Bill Dewey reiterated the motion would be to forward it to the BOCC without a recommendation for adoption or rejection. Then we could list the reasons.

(#1925) Jay Hupp stated he would be happy with that.

(#1930) Tim Wing stated he would make that motion. Jay Hupp seconded it. The motion passes.

(#2000) Lisa Berntsen continued on with the review of the proposed changes to the Fish and Wildlife Habitat Conservation Areas Ordinance. Change #1 is a request by WDFW. They wanted to acknowledge that juvenile salmonid migration areas are important as well. Change #2, also requested by WDFW, where they wanted to strike all the provisions for common line.

(#2040) Bob Fink added that the common line provisions went through the review process and we believe they generally address situations where you have existing small lots; they're limited to existing small lots. Many of these cases would otherwise go through a variance process, which is expensive for everyone involved and would end up essentially in the same result. We don't necessarily support this change that WDFW is suggesting; we're working on how to better justify exactly why that language was there. We did propose as an alternative of removing it the possibility of providing some enhancement of the buffer, which is Change #3. We also proposed Change #11 in response to WDFW and People for the Puget Sound. We also looked at using mitigation techniques such as in Table 10. Rather than deleting this provision we would explain why it's there and require some mitigation from the impact of it. That is our recommendation rather than Change #2. Change #4 is proposed by WDFW and it's just an amendment. Change #5 was another request by WDFW where they said that new agricultural practices and activities would need to go through the regular permit process so they would not be exempt. The second Change #5 is regarding danger trees. We'll use the same language proposed in the Wetlands Chapter, along with Appendix C. Change #8 WDFW had a few requested changes.

(#2450) Jay Hupp requested adding the words 'including fire safety'.

(#2500) Bill Dewey stated in Change #1 the PAC agrees with. We're going to say no to Change #2, Change #3 and accept Change #11 to the alternative to that. Change #4 PAC agrees with.

(#2800) Bob Fink discussed Change #5. There's a long history to this. The existing language went through the appeal process and they determined existing agriculture had to do its share to protect the resource even though it was pre-existing. What we ended up with is this language that applied to both existing and new agriculture and made sure it was done in a way that was responsible as defined by U.S. Natural Resource Conservation Service.

(#2875) Bill Dewey inquired why WDFW said new ag doesn't have to do that.

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(#2885) Lisa Berntsen explained that new ag would need a permit.

(#2900) Bill Dewey suggested leaving it with new and existing.

(#2920) Bob Fink stated he is inclined to leave it there also. There's a reason why it's there. We need to explain what that is in more detail. Since existing has to comply with the regulations why is existing being treated differently.

(#2940) Bill Dewey stated that his rationale is that the PAC has deliberated this to a great degree in the past and our decision was made to include both. The PAC recommends to reject Change #5. The change to the danger tree section will be the same as proposed for the wetlands section. Appendix C was approved by the PAC to include the one additional change for fire safety.

(#3000) Wendy Ervin requested a change in the Nurse Log Placement section to replace 'proved' with 'provide'.

(#3040) Diane Edgin made a motion to accept the proposed changes to the Fish and Wildlife Habitat Conservation Areas Ordinance along with the PAC's proposed changes for the Wetland and forward to the BOCC.

(#3050) Motion seconded by Jay Hupp. Motion fails.

(#3300) Wendy Ervin made a motion to pass the Fish and Wildlife Habitat Conservation Areas Ordinance onto the BOCC with our recommendations.

(#3333) Tim Wing seconded the motion.

(#3340) Bill Dewey called for any more discussion. The vote was taken and the motion passed.

(#3350) Bob Fink thanked the PAC for all their hard work and input.

(#3375) Meeting adjourned.