

# MASON COUNTY PLANNING ADVISORY COMMISSION

**Minutes  
November 3, 2008**

(Note audio tape (#3) dated October 3, 2008  
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 at 6:00 pm by Chair Bill Dewey.

## **2. ROLL CALL**

**Members Present:** Bill Dewey, Tim Wing, Dennis Pickard, Jim Reece, Diane Edgin and Debbie Jacobs. Don LeMaster was excused.

**Staff Present:** Barbara Adkins, Allan Borden, Bob Fink.

## **3. APPROVAL OF MINUTES**

None.

## **4. NEW BUSINESS**

(#0050) Bill Dewey noted the number of people in the audience present for the Peninsula Topsoil rezone request and moved it up to the first item on the agenda.

(#0085) Allan Borden, Department of Community Development, opened up the public hearing on the Peninsula Topsoil rezone request. Allan handed out comments from Ken VanBuskirk and Jacqueline Mastow. This rezone request contains two properties that total 50 acres in size located west of Old Belfair Highway about a mile north of the intersection of Clifton Road and Old Belfair Highway. The current zone is RR20 and the proposed zone is RR5. The existing land use is a sand and gravel operation and designated timberlands. This property is completely surrounded by RR20 properties. The existing access is down Timberline Dr., which is a private road. The properties are situated northwest and west of the Belfair UGA. There are wetland, stream, floodplain, and slope critical areas on the site and to the west, east, and southeast. Agricultural Resource Lands and Long-Term Commercial Forest Lands are located in the vicinity. In current zone, or if new zone is approved, applicant still could divide property using conventional or

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performance subdivision process. Criterion 1, regarding damage to public health, safety and welfare, there is a concern about available water for development on these 50 acres. It would have to be secured through water rights, or connections through some sort of community system. The suitable areas for development need to be determined in regards to all the critical areas. Criterion 2, regarding consistency with the Comp Plan, the parcels in the general area, range from 7 to 44 acres in size. Most of the land in the vicinity is under timber taxation, and staff concludes RR20 zone is the most consistent designation. Criterion 3, regarding sprawling low-density rural development, there is an existing sand and gravel use that is resource based but an existing nonconforming use. Staff concludes this criteria is not met. Criterion 4, regarding demand for urban services in rural areas is met based on staff evaluation. The services will not be at urban level services. Criterion 5, regarding interfere with urban area growth, is met based upon staff evaluation. Criterion 6, regarding retention of open space, fish and wildlife habitat, protection of air and water, is met as staff concludes that county standards are met. Criterion 7, regarding pressure to change other land use designations, Peninsula Topsoil did not provide compelling reasons or unique characteristics of the property why these parcels should be considered for rezones. If this request is approved, a precedent is set, and as a result, similarly situated parcels elsewhere in the county could be subject to the added pressure to rezone to denser development densities. Criterion 8 is not applicable to this request. In conclusion, staff feels the current zone matches the characteristics of the area dealing with critical areas, resource lands, and parcel sizes. The current zone still allows some flexibility to divide the property and the request to go to denser residential densities would serve as a precedent to future requests.

(#0650) Tim Wing stated there's 7, 44-acre pieces. This map shows some smaller pieces adjacent to these parcels.

(#0675) Allan Borden explained there is RR10 off to the west of the property.

(#0685) Tim Wing stated it's east of the property where it says RR20. They don't appear to be even 5 acres in size.

(#0695) Allan Borden stated some of them are not as they existed at the time the zoning was established. I stated the surrounding lands were RR20, and 20 to 40 RR10 parcels.

(#0700) Tim Wing inquired why the smaller lots were not discussed in the size of the lots in the general area.

(#0710) Allan Borden noted it was an oversight.

(#0720) Tim Wing noted so there are some parcels that are zoned RR20 that are not 20 acre parcels.

(#0725) Allan Borden responded that is correct.

(#0735) Tim Wing stated you raised the question of water availability, and inquired if there was some reason to think homes that might be built there wouldn't be able to get water from Belfair Water.

(#0740) Allan Borden responded they would have to prove availability of water from the Belfair Water District as part of the subdivision process.

(#0745) Tim Wing inquired if these parcels on the west side of the Union River, to get to them you have to cross the Union River. Do they have an appropriate access to get across the Union River? Is that part of the criteria we should consider in terms of the zoning request?

(#0755) Allan Borden stated that is one of the criteria for the zone. Currently they don't have an access.

(#0765) Tim Wing inquired if they can make a rezone request if they don't have proper access.

(#0775) Allan Borden stated they could make the request, and it can be reviewed whether it meets the criteria in the Comp Plan. The only access right now is a narrow road called Timberline Dr, which is a private road and has a one lane bridge over Union River to these parcels. Right now they don't have a county road access to the property. Even under RR20 they would have to have some access to all the properties they create. The nearest county road is Old Belfair Highway.

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(#0800) Miscellaneous discussion.

(#0900) Tim Wing raised the question if the PAC can even approve this rezone without an access.

(#0925) Miscellaneous discussion.

(#1100) Tim Wing inquired about Ken VanBuskirk's comment about Huson Creek being in the wrong location.

(#1130) Allan Borden explained that it's in the wrong location on the GIS map. The contour layers are different information than the hydro layers, and sometimes the hydro layers wind up in the wrong location. They do tip a person off to look for a stream feature in the vicinity.

(#1155) Bill Dewey opened up the public comment portion of the public hearing.

(#1175) Robert Wright lives on Timberline Dr. He stated he doesn't have the same concerns that everyone else has about the neighborhood growing. I'm not strictly opposed to it, but I am very concerned about the traffic on Timberline Dr. It's already pretty busy and people don't seem to really care that the speed limit is 15 mph. It's a big wide private road, and people speed through there all the time. It's scary when you think about children and dogs running around in there. We're so afraid of that road we put a fence around our entire yard. I would just hope that any expansion in the neighborhood behind us would include some kind of mechanism for slowing that traffic down.

(#1240) Patrick White also lives on Timberline Dr. He stated it is a great community, but if they're going to be building homes back, it will help with the traffic. It will decrease the number of large trucks. I don't see a problem with the road itself. I would like to see some way to keep people from speeding up and down there, as well as garbage. Cars have been dumped back there. I don't want to see more businesses there, or churches or schools. We would like to see more homes there.

(#1340) Mark Huson also lives on Timberline Dr. I want to echo what Robert Wright said. There should be something installed to slow traffic down. I'm not opposed to development, but needs to be some way to control traffic there.

(#1350) Ken VanBuskirk of Davis Farm Road testified next. He stated his wife and he own the parcel that's the southwestern border of the gravel pit. I'm also the co-manager of the Davis Family Farm, which borders the rest of the southern boundary. I talked to Mr. Borden last week, and FEMA gave Mason County on the temporary moratorium on the flood plain development for the Union River just last week. Those flood plain maps are old and needs to be updated. After the storms last year, we had a foot of silt on our fields there, which is the ag resource land. Those lands in the RR20 that make up the Davis Farm, it's more than that simple designation. That was a gift that Tom and Irene Davis gave to their children and the community. It will be a working farm, which our family has retained the right to farm. The forest land will continue to produce timber and other small forest products. The Union River has a permanent wildlife buffer along it, in perpetuity. This proposed rezone doesn't fit; the impact of more intense zoning will impact our properties as well as the Union River. It is very difficult to manage our farm when we have higher densities and incompatible uses adjacent or nearby. We have stray dogs harassing and maiming our livestock, brush theft, and trespass are daily occurrences. If rezones are to higher densities, it will only increase these uses. We concur with staffs findings that this proposed rezone is not consistent with the Comp Plan. Therefore, we don't think this rezone should be approved.

(#1525) Celia Parrott of Belfair testified next. She inquired about the idea of a precedent when she read the zoning and it said one of the concerns was that if you change it from an RR20 to an RR5 you're setting a precedent. She inquired if each rezone request was dealt with absolutely individually, or once a precedence is set, is there a domino effect. That is a real consideration.

(#1575) Bill Dewey explained one of the things we try to concern ourselves with is to be consistent in our decisions. If we rule a certain way on this request, if something else comes in similar, we would be hard pressed to not do the same thing again.

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(#1600) Lisa Wright of Belfair inquired if this is approved how many houses are they anticipating to be developed. If that's the case, would the road still be considered private just because it's an easement, or would it turn into a county road?

(#1640) Tim Wing explained that if we approve this rezone, there a certain number of houses that would be allowed to be built, but it's no guarantee that the developer would build those. There's also no guarantee the road would become a county road.

(#1650) Miscellaneous discussion.

(#1800) Laura Wood, one of the managers of the Davis Family Farm, testified next. She inquired if nothing is changed at all, if it's left the way it is, this site could hold two homes, is that true.

(#1835) Allan Borden explained with a performance subdivision they could double the number of lots. They could get 4 or 5 lots.

(#1850) Laura Wood stated when the land use zoning was put together, somebody decided this area should be RR20, and I realize there are a lot of little houses along the river that don't fall into the category of RR20, but the reason it was zoned that way was to protect the environment and protect the river. So to go back and say that because 50 years ago people built houses too close to the river and emptied their sewage into it, doesn't seem like a good idea today. It looks to me like there could be houses there. The way it is right now with no changes. So changing it to make sure somewhere along the line they could build 8 houses, seems like it's not necessary.

(#1900) Bill Dewey closed the public comment portion of the public hearing.

(#1925) Dennis Pickard stated that the applicant hasn't really given us any reason to approve a rezone of the property. No compelling reason to change the zoning. I am opposed to granting the rezone. That is my motion.

(#1955) Tim Wing stated he takes issue with some of the elements of the staff report, notably about increasing sprawl. He says he fails to see 5-acre lots as sprawl. He also takes issue with the fact that this will greatly increase development density. He also doesn't think this is a precedent that necessarily applies anywhere else, like many of our other requests. With that said, I don't think there is enough compelling reason to approve this, so I'll vote to not approve it.

(#2000) Diane Edgin stated she feels this is not the time nor place to increase the density. The river is a big issue. The ag resource lands to the south is even a bigger issue. If we approve to increase the density, you're just putting more pressure on this area. As far as setting a precedent, once you start doing something then it might be an issue, but it could be years down the road.

(#2050) There was a second to the motion, a vote and the motion passed to follow the recommendations of the staff report and deny the rezone request.

(#2075) Allan Borden opened the public hearing on the Nathan & Debra Stout / Patrick Paradise rezone request for four parcels to be rezoned in the rural area from RR20 zone to Rural Commercial 2 zone. Under the RR20 zone, residential uses are predominate, but small scale ag, churches, recreation centers, cell towers, fire stations, fish hatcheries and public utilities are permitted. Special Permits allow for home occupations and cottage industries. Under Rural Commercial 2 zone, commercial, service and tourist uses are allowed, as well as restaurants, retail, and various small offices. Special permits allow for gas or service stations and self storage facilities. The applicant wants to develop the property to commercial self storage to address storage needs for people in the rural area, especially nearby these subdivisions that already exist. The site is located near the intersection of McEwan Prairie Road and Mason Lake Road and have two road accesses that could facilitate commercial land uses. The north, south, and west sides of the property are the RR20 zone, and on the east side is RR5 zone. Under Criterion 1, regarding damage to public health, safety and welfare, is met. The intended use is a self storage that would have to be reviewed if the rezone were

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approved. Criterion 2, regarding consistency with the Comp Plan to provide available services and foster economic activity, is met. Criterion 3, regarding no increase of sprawling low-density rural development, is met. Criterion 4, regarding no increase in demand for urban services in the rural area, is met. Criterion 5, regarding interfering with GMA goal, is met. Criterion 6, regarding interfering with GMA goal for open space, is met. Criterion 7, regarding no pressure to change other land use designations, is met. Criterion 8, regarding corrective rezone of lands, is not applicable to this request. At the end of the staff report, you do have an option to modify the request to rezone one to three parcels, instead of approving all four parcels. In summary, staff would find this requests meets all 7 criterion for rezone approval.

(#2800) Dennis Pickard inquired if any of the surrounding smaller lots would be able to apply for a rezone.

(#2850) Allan Borden responded not if they are within the ½ mile isolated location.

(#2860) Bill Dewey inquired if they could develop the property to any of the other allowed uses.

(#2875) Allan Borden responded they could.

(#2900) Bill Dewey inquired if the self storage units would also require a special use permit.

(#2920) Allan Borden responded it would require a special use permit.

(#2030) Bill Dewey opened the public comment portion of the public hearing.

(#2950) Patrick Paradise, applicant, stated these four parcels were purchased many years ago for the purpose of what is being proposed now. We have the money to develop it now, as well as seeing the need for the surrounding area. We have been approached by several people requesting that we do this development. We believe this is a perfect low impact location for this type of activity.

(#2985) Fred Jones testified next. He stated he can't see why it would not set a precedent. If you rezone this piece of RR20 into RC2, I can guarantee you I'll be here next year with a 5 acre tract I have down by the Harstine Island Bridge to do the same thing. It's classified as RR5 and I would like to put boat storage on it. So it will set a precedent.

(#3040) Allan Borden responded it will depend on where your property is and whether it meets the characteristics criterion. If Pickering Marine is 300 feet down the road from your property then you wouldn't be far enough away to even consider the rezone. You would have to be at least ½ mile away. It really depends on the situation.

(#3100) Paul Wildman of Mason Lake Road testified next. He is concerned about the area in question. Being a resident out there for the past 4 years, I moved there for a particular reason, and that is because it is a nice quiet area. There is much more traffic there now since I've been there, and there is a concern this type of development would also increase that traffic. I'm also concerned about the nuisance noise problems with regard to property that is going to have active storage. People would be there working on their RV's and boats in that location. He inquired if there was going to be any protection provided for the people who live in the surrounding residences. He also noted concerns about drainage problems with impervious surfaces. It's not that far away from Rainbow Lake pond, and that is a pond we already have problems with in that there is ingress but no egress out of the pond. Traffic is a big problem there. We have the trucks coming from 101 going the back way that come out and go around to 3. I live right on the blind curve and the traffic is never within the proper speed limit. There is also potential nuisance lighting issues. He is also concerned about the aesthetics and if there would be any way of closing it off from general view. He noted another concern about the scheduling of getting access to the storage units.

(#3400) Peggy Schouviller of Mason Lake Road testified next. We live to the southeast of this property. I have the same concerns of the previous gentleman. We are concerned about speed, noise, congestion, more traffic, and possibly an eyesore. She inquired if other residents at Rainbow Lake could note their opinions on this.

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(#3500) Bill Dewey explained there will be another opportunity at the BOCC hearing to voice their concerns and opinions.

(#3550) Peggy Schouviller inquired about the two road accesses.

(#3600) Patrick Paradise explained there are two driveways.

(#3625) Bill Dewey closed the public comment portion of the public hearing. Bill Dewey noted it seems to be an appropriate use in that area, between Lake Limerick and Rainbow Lake. There's a lot of residences out there that would be served well by this type of facility. He did state he is concerned about all the other issues that have been brought up. There are other uses on the allowed uses list that may not be appropriate out there. That has me somewhat reluctant.

(#3700) Diane Edgin stated that most of the issues that have been brought up will probably not come into play. People who invest in that kind of business are not going to put in something less than appropriate out there. I don't see a reason to deny it on aesthetics.

(#0135) Dennis Pickard stated the point is well taken as he also has concerns about buffering issues. They will need to be addressed in the DR's that apply to the actual development with the special use permit and the approval process involved. The issues that are raised by the neighboring properties are legitimate ones. Our regulations that govern the actual development better be in shape to address those issues. If there are problems with that, that's beyond the scope of what's before us today. From the criteria that we're required to review the rezone request under, although I have some concerns about it, I do feel the criteria has adequately been satisfied. I still have concerns on whether we should approve it as a whole or in part.

(#0240) Tim Wing stated that even if we approve this rezone, a special use permit would have to be applied for and surrounding properties would be notified and still have a chance to voice their concerns at that time.

(#0250) Allan Borden stated that is correct. It is a public review process with notification of surrounding property owners, and it is also advertised in the paper. The case is heard by the Hearings Examiner, and he makes a determination based upon the staff report and what takes place in the testimony. The application would have to have a site plan, and present how they're going to plant and screen on the perimeter of the property, hours of operation, and follow the floor area ratio standards and setback standards.

(#0300) Tim Wing stated he is in favor of approving this rezone request because there is potential for many of the problems that were raised to happen under the current designation as well. Also, there is a process required to put the storage facility there, which would include more public input and mitigation for some of the problems that might exist. In terms of traffic, if you don't put the storage unit there, there's going to be traffic taking the things you want to store somewhere else. That will mean more traffic further down the road.

(#0330) There was a motion and a second to approve the rezone request as presented by staff.

(#0350) Bill Dewey inquired of Dennis Pickard about his comments on perhaps approving only 2 or 3 of the lots for the rezone.

(#0375) Dennis Pickard explained hearing about the special use permit process caused me to reconsider that. In looking at the size of the lot, failing to include the lot closest to the residences in the project would actually reduce the number of adjoining property owners who would get notice because it would largely eliminate those from the project.

(#0410) Bill Dewey inquired what the rationale would be if we weren't going to approve the rezone. It sounds like you're comfortable going with an approval at this time.

(#0420) Dennis Pickard stated I have reservations that I'm hoping will be adequately addressed in future processes. I hope the rest of the county's regulations are up to the task of adequately addressing the legitimate concerns of the neighboring property owners. That is my primary concern.

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(#0435) Bill Dewey asked for the question and the motion passed with 4 in favor and 1 against.

(#0450) Tim Wing inquired of Allan Borden that a gentleman brought up the question regarding his property near Harstine Island marina and perhaps wanting to rezone it, but you talked about the half mile rule.

(#0465) Allan Borden responded the half mile separation is a characteristic that if you don't meet it, the request is not further reviewed as it isn't isolated enough under the Comp Plan to be considered. Allan explained it is an RCW and a state law.

(#0500) Barbara Adkins opened up the continuation of the public hearing on the Transportation Element. They've addressed the three items on the amendment to the Mason County Comprehensive Plan Transportation Element dated October 8, 2008. I'm bringing to you the edits and it is Charlie Butros's position that that is where they stand.

(#0525) Bill Dewey noted the PAC has come to terms with where Public Works was at with it, but didn't feel comfortable taking action since Tim Wing and Dennis Pickard were not at the last meeting. Both of you have been so passionate on this issue, we wanted you to be here for the final discussion. That's why it's back before us tonight. We talked about this at the last meeting, and Charlie indicated that the Belfair study will meet the need of #1. Item #2 is his compromise on that, and on #3 it was not legal.

(#0575) Tim Wing stated that Charlie's comment that it would be illegal to consider #3 is a clear sign that he missed the point. There's nothing illegal about the county deciding to do something about traffic in one of the two UGA's if it's overwhelming, regardless of whether it's on a state road or not. I assume he meant that he thinks it's illegal for the county to participate financially in the improvement of a state road.

(#0585) Bill Dewey clarified that was what Charlie indicated.

(#0595) Tim Wing stated he's heard that before, and I've also heard from other people that's it's not illegal. The point is that if the state road is jammed to the point where it's not safe and traffic is unbearable, then the county has the responsibility to do something about that regardless if it's a state road or not. What they do about can be a variety of things that don't have to include putting a dime into the state road. It could include other road structures that would remove some of the traffic from the state road, which would improve some of the traffic on the state road. I don't think he got that part of it. He's put some things in here that says 'The infrastructure needs of the unincorporated UGA's would be identified and included in the prioritization matrix in this category'. That's fine, but I'm done fighting about this at this level with this group. I think the PAC is getting about as much out of this issue as we're going to get. I think the next round of efforts to get the county to do more inside the UGA's has to do with trying to get funding from the state to help with that. It also has to do with working with the county's six year plan and try to insist that no new roads go on that six year plan that are out in the boonies with no traffic on them. Instead the money that could be allocated for that should be considered for new roads. This puts into the element some tools that people can use in the future to ask the big question. I'm not totally happy with the whole thing, but I think that having this in here the way it is is okay, and I'm prepared to move ahead on it.

(#0660) Dennis Pickard also noted progress from his last meeting where we talked about this. He stated he has noticed it says the only urbanized area in the county is Shelton, and we know that's not true. It's not going to be true. It talks about the whole goal of the transportation system is to preserve the rural nature. Well, it's not all rural in the county. It says the county will consider developing a plan. No, develop the plan. Make it mandatory, because it's not getting done otherwise. However, overall, perhaps passing along these suggested revisions to the BOCC, I'd be comfortable moving forward with this and hopes the end result will start moving in the direction we all agree it needs to move in. I suggest we move these suggestions to the BOCC to consider along with the recommendation to pass this forward. I will make that my motion.

(#0755) Tim Wing inquired if the motion is to accept what staff is proposing.

(#0775) Dennis Pickard added also sending along the edits we discussed.

(#0785) Tim Wing stated perhaps we should send these edits to Public Works and ask them to come back and talk to us about it.

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(#0795) Dennis Pickard stated we're getting down to the timeline, and we still have the hearing before the BOCC on this.

(#0810) Barbara Adkins explained she has already scheduled Transportation and Capital Facilities to the BOCC on December 9<sup>th</sup>.

(#0825) Bill Dewey stated we have a motion to send this to the BOCC along with the additional recommendations. If that's the case I'd like to go through these edits.

(#0850) Dennis Pickard explained his first edit would replace 'The only urbanized area in the county is Shelton, where approximately 20 percent of the county's population and approximately 50 percent of commercial activities are located'; that is located under Introduction and Purpose. It fails to recognize the existence of the UGA's and other more densely developed areas, and the transportation needs of those that are at odds with a fully rural emphasis. The proposed sentence would read: 'The primary urbanized area in the county is Shelton, where approximately 20 percent of the county's population and approximately 50 percent of commercial activities are located. In addition, other areas of the county, especially the UGA's of Belfair and Allyn, as well as various RAC's have been established under the Mason County Comprehensive Plan and designated as areas intended for future high density development'.

The second edit is under Goals and Priorities. It emphasizes rural character and my edit recognizes there is more to Mason County than just rural character. The proposed paragraph would instead read: 'Mason County's goal is to provide adequate mobility for all people, goods, and services in an efficient and economical manner. Planning and developing future transportation facilities to accommodate the projected growth and population and commerce in the urban areas of the county will be a primary goal. In the rural areas, existing transportation facilities will be maintained and improved while minimizing changes to the physical and social environment so as to preserve the 'rural character' of those areas. The transportation system shall support the transportation needs of Mason County within the context of the county's Comp Plan'.

(#1000) Bill Dewey noted Charlie Butros was not committed to do an overall countywide plan. He's committed to the Belfair plan as he has the grant and the resources to do it.

(#1040) Dennis Pickard stated that's why he is requesting the planning projects be put into the six year plan. We need to move forward in those areas where we don't have a plan now. The date for the Allyn transportation plan I would be comfortable in removing that.

(#1080) Miscellaneous discussion.

(#1150) Tim Wing agreed that it asks them to make more of a commitment to planning. It asks them to look at the rural UGA's as urban areas. It asks them to pay attention to using future growth projections for transportation planning goals. Those are things he has already said he would do.

(#1165) Debbie Jacobs inquired if we make a recommendation to approve this with our edits, will it actually go to the BOCC.

(#1175) Barbara Adkins stated it will all go to the BOCC as part of your recommendation.

(#1195) Bill Dewey stated by saying the county will develop a plan doesn't mean it has to be done next year.

(#1250) Tim Wing stated he's in favor of accepting what Charlie did, and ask him that these additional changes be incorporated, sending it on to Charlie, and then onto the BOCC. That's our recommendation. If the BOCC chooses to soften that, that's up to them.

(#1280) Bill Dewey noted out of respect for the conversation we had with Charlie, we know where he stands on this.



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(#1335) Dennis Pickard stated that if the PAC feels comfortable with the fact that Charlie is starting to move in the direction of seeing where we're coming from and trying to work with those goals, and if the particular language I suggested would be counterproductive then I would propose removing that language.

(#1365) Bill Dewey stated this has been a productive discussion and maybe we should state 'as funding permits, the county will consider ...'.

(#1395) Dennis Pickard deleted his part of the motion regarding the date of 2010.

(#1425) Miscellaneous discussion.

(#1475) Dennis Pickard will email a cleaned up copy of proposed amendments to the Transportation Element to staff.

(#1540) Bill Dewey noted the amended motion. A vote was taken and the motion passed.

(#1635) Bob Fink opened up the public hearing on the Danger Tree Ordinance. This is a public hearing to receive public comment on this proposal. There is one set of language for the Fish and Wildlife Critical Habitat Areas, and another draft for the Wetland Critical Areas. The BOCC has requested that we review this issue. It is a fairly narrow issue, which is what restrictions should there be on the removal of hazardous trees that are within the buffer critical area, or the critical area itself. A danger tree is a tree that is within a tree length of an inhabited structure or an accessory to a residence. The proposal would change the existing code to require prior approval by the county before felling the tree. It would require a professional to review the necessity to fell the tree, and make recommendations for dealing with the issues. It would require enhanced mitigation through the form of leaving the tree trunk on the ground or in the critical area so it serves as habitat and helps protect the functions and values. This draft was developed with the assistance of DOE and the WDF&W.

(#1735) Debbie Jacobs inquired if felling a danger tree requires county approval at this time.

(#1740) Bob Fink explained the county is already involved with this process, however pre-approval is not required. People call and ask, and we try to go out to visit the site to give them some assurance that what they do is okay. The other way we are involved is we sometimes get complaints that people are cutting down trees and we go out to investigate. There have been a few times when people have cut down trees in violation of the code.

(#1765) Debbie Jacobs noted she has been on the board at Lakeland Village for many years and they have CCR's that are very specific by different areas in regards to what they can or cannot do with trees. She inquired what takes precedent as far as the danger tree.

(#1785) Bob Fink explained the county regulations apply and restrict what trees you can fell. That may be allowed or not allowed by the CCR's in your particular area. However, if it's prohibited by the Association and we allow it, then the Association could stop it. They are responsible for enforcing their own rules and they can go to court to do that.

(#1820) Debbie Jacobs stated we've had to take a different stance on these danger tree issues at Lakeland Village. If you restrict someone from taking down a danger tree, and then it falls on their property, there becomes a whole liability issue that comes into play.

(#1830) Bob Fink explained these regulations are not intended to stop the felling of legitimate danger trees. They're intended to make sure that the mitigation, when they're felled, is appropriate.

(#1850) Tim Wing noted the agencies seem to be happy with this draft.

(#1860) Bob Fink responded the agencies are happy with it, but we have yet to hear from the public. I did not receive any written comments from anyone prior to this meeting. We did send out notice to the builders, consultants, etc., and others who have expressed interest in this issue in the past.

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(#1885) Tim Wing stated he is in favor of sending this ordinance forward, but would like some assurance this is the proper language, and wondered about other county's ordinances and how they worked.

(#1920) Bob Fink explained there is a science surrounding hazardous trees. There are a few studies that have been done, and when trees should be removed. I didn't do a survey regarding other counties, but we have been living with these codes for some time. I gave you the online permitting process they use in King County for removing trees and vegetation for fire hazard. You just have to notify them prior to removal and then they respond by telling you all the rules you have to follow. They don't necessarily do a site visit. The reason for requiring pre-notification is to avoid something being done that doesn't meet the code. It's hard to correct these things after they have been done. It gives assurance to the property owner that if they want to remove the trees, it's safe to do so.

(#2000) Bill Dewey shared his concern with always having to have a consultant notified for these issues. It's also costly. If I understand this ordinance, if it's two trees or less, then you need an arborist or professional forester to say it's a danger tree, and then notify the county and then cut them and then do the mitigation. If it's more than two then you have to have a habitat management plan submitted for approval.

(#2020) Bob Fink stated that is correct.

(#2050) Debbie Jacobs stated there are homeowners in Lakeland Village who are coming to the board to say their insurance company won't insure them because of the trees being so close to the homes. There's been a huge change in just the last couple of years.

(#2085) Bill Dewey opened up the public comment portion of the hearing.

(#2095) Steve Whitehouse, attorney in Shelton, testified. Bob has kept me informed of these proposed changes, but I do wonder why we are doing this. I tend to not like a lot of formal regulation, but if it's a situation where you ought to work with a county on things, then have it work that way instead of having to hire all kinds of expensive consultants. There are liability issues. If you know there's a danger tree, you don't cut it down, and it falls down and injures someone, you are liable. What if the tree isn't within a tree length of the house or structure? Superior Court tells me I have to cut it down or I'm going to be liable if someone gets hurt.

(#2140) Bob Fink explained you can apply for permits to remove trees that don't meet this definition. This is a nonpermitted process. We tried to reduce the costs by not requiring a permit to do this; the other is an option.

(#2175) Steve Whitehouse stated if you look at a tree and it's dying, it's a danger tree. If it's leaning badly, it's a danger tree. I don't have any problem with having to notify the county if I want to take down a danger tree, but it seems I ought to be able to notify the county of the danger tree, and the county has 20 or 30 days to take a look at it. The county claims to have some expertise and they ought to be able to do this. I have some property on Hammersley Inlet with a huge tree on it. It's half dead, as half the branches don't have leaves. I called an arborist to see what to do to save the tree. He said it's not worth my coming out. If half the branches don't have leaves on them, you'll never save the tree. It's still alive, but at some point in time I've got to cut that tree down. The cost of me getting an arborist out there is a useless cost. If Bob comes out there with me, he's going to be able to tell me that the tree is dying. I don't have any problem with leaving it if I cut it down. If you take a dead tree down, you're doing exactly what nature would do over a period of time. Nature doesn't require a habitat management plan, it doesn't require you to plant six trees. If somebody says BAS tells you that you have to do more than nature does, I'm sorry that's wrong and common sense will tell you that. I'm actually an advocate of GMA but not an advocate of how it gets implemented sometimes. One of the things I see in my business is the more complicated you make things, the more people are going to find ways not to comply. You need to make these things simple and concise and give people an opportunity to comply and want to do the right thing. That's what has happened with GMA. It has become so confusing it's impossible for the average person to understand it. It's my opinion that we really have to pay attention to these things that cost money that are an economic waste.

(#2445) Bill Dewey inquired of Steve Whitehouse what he would change or if he had any proposed changes to the amendments.

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(#2450) Steve Whitehouse replied he would rewrite the whole thing. I would say that if you're going to take down a danger tree in a habitat area, you need to notify the county and give them an opportunity to come out and inspect it. I'd rather pay the county \$50 than pay an arborist \$500. Beyond that, I don't know why this needs to say anything.

(#2500) Jerry Schouviller of Mason Lake testified. He stated he has danger trees and agrees with Mr. Whitehouse. He stated it's really getting sad when the county controls everything you do on your own property. It's just too much. I put in for a permit to do some selective logging over three years ago, and I'm just now getting it approved. After thousands of dollars with all these specialists coming out and walking the property, and now requiring me to notify and pay for and cut a tree down and lay there when I burn wood for heat. That doesn't make sense either.

(#2560) Bill Dewey closed the public comment portion of the hearing.

(#2575) Tim Wing stated he agrees with some of the public testimony and that most people will abide by rules that are well stated and are reasonable. They need to seem fair on their face. I just don't like to see us intrude that much on what people do. People need to know and learn about buffer areas, and the importance of them, as well as the fact that leaving some trees does have a purpose. If it's just a danger tree that might fall on your house, and it's not in a buffer area, you shouldn't have to leave a trunk there.

(#2645) Bob Fink explained this ordinance would not even cover trees not in the buffer. Trees that are not in the buffer area are not covered at all; you can cut them down. The provision added was that the trunk be left on site to provide large, woody debris to enhance mitigation. The other important element is the prior notification. If it wasn't clear to the county if it was a danger tree, the county could request a forester or arborist do an evaluation. That was language put in there for enforcement purposes. I do agree with Mr. Whitehouse in that I would like to have the rule as simple as possible so people will comply. The provisions involving professionals is to make sure the activity is done with a scientific basis. I understand that makes it more expensive and more difficult and may make people less reluctant to go through the proper steps to get it done correctly.

(#2775) Bill Dewey stated he has concerns about the added costs, or make it so complex that people just break the law, which could cause liability issues.

(#2800) Dennis Pickard noted F&W commented that Lewis, Thurston, and Kitsap Counties have provisions for danger tree removal that allow the review authority to require a consultation with a professional, but don't require it as a matter of course, particularly for one or two trees in a ten year period. That seems like an excessive requirement. I'm opposed to the requirement of an arborist or forester for any removal of danger trees in the buffer.

(#2900) Bob Fink stated the agencies recommended that a professional make that evaluation for a larger scale project. That kind of investment may be worthwhile for a larger scale project. With a smaller project we were trying to avoid it. Although they did recommend that an arborist make that call.

(#2975) The PAC agreed they were more in favor of the county leaving it optional.

(#2985) Tim Wing noted if someone fills out an application, if the county has someone review this, and they've checked that this is the sixth time they've asked for this in the last six months or ten years, the county could choose to go out and inspect the situation. Most people, if given good instructions, will do it all on their own. This county doesn't have the staff to go out and deal with this issue. This is the same, to me, as the business of wanting county staff to check everybody's septic system every year. There's got to be a way to do it without burdening the county and burdening the people. I'd like to send it back to Bob with the comments we've been making and bring it back to us. He inquired if that was possible.

(#3100) Bob Fink responded there isn't a firm deadline, but the BOCC wanted it processed as soon as possible.

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(#3125) Miscellaneous discussion on possible upcoming meeting dates.

(#3200) Bill Dewey inquired how enforcement is done on this issue.

(#3250) Bob Fink explained it depends on the situation. Sometimes it's simply a tree; sometimes a forest that's cut down. Usually we ask for mitigation in the form of planting and if they are cooperative, that's as far as it goes. They are just asked to do what they should have done in the first place. There are people that don't honestly know the full extent of the rules, and there are some people that don't even know enough to ask to find out where there is an issue with that pond in their back yard.

(#3300) Miscellaneous discussion regarding if a homeowner even knows he might have a critical area on his property.

(#3400) Tim Wing stated the following points: That we require a homeowner to notify the county that they want to cut a tree down, that they have to wait thirty days to do that, that the county can review it or they don't have to, and that no arborist would be required unless the county does review it and says don't cut it, then an arborist can be hired to mitigate it.

(#3500) Bob Fink stated he would add to that to leave the stumps as woody debris.

(#3550) Tim Wing noted he would add the county would communicate the mitigation requirements to the person who put in the application.

(#3600) Bob Fink explained the problem with that language is that the county needs fairly specific language as a basis for requiring mitigation. I do agree with the concept of keeping it simple, but we are also trying to follow the recommendations we received from the state agencies as well.

(#3700) Miscellaneous discussion regarding leaving in 'B' on page 1, with the exception of expense of hiring a professional for the removal of one or two trees. Discussion that it's an unnecessary expense.

(#0080) Bill Dewey inquired of Bob Fink if there has been enough discussion for him to redraft the regulations.

(#0085) Bob Fink stated he could do that.

(#0090) Discussion of next hearing date to continue it to. Danger tree hearing continued to December 15, 2008.

Meeting adjourned.