

**ISLAND COUNTY PLANNING COMMISSION
SUMMARY MINUTES
UTSALADY ELEMENTARY SCHOOL GYM, CAMANO ISLAND, WA
TUESDAY NOVEMBER 20, 2007**

	<i>Members Present</i>	<i>Members Absent</i>
<i>District 1</i>	<i>Val Hillers</i>	
		<i>Ray Gabelein</i>
		<i>Mike Joselyn</i>
<i>District 2</i>		<i>Sheila Crider</i>
		<i>Bill Massey</i>
	<i>Alan Schell</i>	
<i>District 3</i>	<i>Wayne Havens</i>	
	<i>Deb Eidsness</i>	
		<i>Scott Yonkman</i>

ROLL CALL

Wayne Havens, Val Hillers, Alan Schell, Deb Eidsness

UNFINISHED BUSINESS

Public Hearing to review the Draft Wetlands Critical Area Ordinance.

Chair Hillers talked briefly regarding this being the second of three hearings; last weeks' hearing was in Oak Harbor and the next week would be in Freeland. The subject being the Draft Wetlands Ordinance, released November 1st. All materials related to this are available at the County office in Coupeville as well as at the Camano Annex, electronic versions online at the County's website and in hard copy at this meeting.

Ms. Hillers explained the process, advised staff will try to answer questions and she asked the audience to be as specific as possible in their questions. She also encouraged the audience to submit written comments, which will become part of the record. If there is a particular portion of the ordinance that is troubling, now is the time to bring it to the attention of staff and the Commission and those concerns will be addressed as part of this process. The Commission assured the public their written comments will be read and taken into account. The minutes will be provided to the members of the Commission who were unable to attend tonight and therefore will be available to all nine members.

***Planning Staff Presentation
By Director, Jeff Tate***

Mr. Tate thanked the audience for their attendance and stated he was looking forward to getting feedback from the public. Polling the audience he determined how many in the audience were new to the process and found most were familiar with the steps that had been taken to date. He further explained the process to update the county wetland regulations began two years ago as required by State Statute.

Overview of Proceedings

- *Public hearing vs. public meeting*
Tonight is a public hearing, which is an opportunity for people to approach the Planning Commission and provide remarks, comments, opinions and thoughts about the proposed draft wetland regulations.
- *Planning Commission deliberations and decision making*
Later the Planning Commission will deliberate at a public meeting. The public is invited and encouraged to come and listen, but there is not the opportunity for public testimony as there is at tonight's hearing. Ultimately the Planning Commission will deliberate on all the public comments they have heard, those provided at hearings, those provided in writing, they will talk amongst each other about what they have read and heard, they will ask questions of staff and will then vote on a recommendation to the BOICC who is the legislative body and who adopt those laws.
- *Establishing a deadline for submitting comment*
November 30th has been determined as the deadline for public comment.

Planning Commission Schedule

Public Hearings:

November 13th which was held on the north end of Whidbey in Oak Harbor

November 20th tonight's meeting on Camano Island

November 27th which will be on the south end of Whidbey in Freeland

Public Meetings/Deliberations:

December 11th Coupeville, Commissioner's Hearing Room

December 13th Coupeville, Commissioner's Hearing Room, *if needed*

Recommendation to the Board:

December 18th during regular session of the BOICC

Public Comment Period Deadline

The deadline of November 30th for public comment was established

Background

Periodically all cities and counties in the State of Washington have to update their wetland regulations. This process started in 2004 for the Planning Department. It has been a long process of gathering information to better understand our circumstances in Island County and also better understand the science that exists pertaining to wetlands. The process involved:

Forming the Wetland update team

County Planning Department Staff

Keith Dearborn, Attorney

Dr. Paul Adamus, Lead Scientist

State Agency Peer Review Group

State Department of Ecology

State Department of Fish and Wildlife

State Department of Natural Resources

Community, Trade and Economic Development

Professional Peer Review Group

Field practitioners: who are out on the ground in wetland science, biologists, and consultants, both in the county and outside of the county.

Academic professionals: who work in Universities and are very abreast of wetland science and emerging science.

Regulations must be based on Best Available Science which is a broad subject, there is a lot of science out there and not all of it says the same thing; therefore it is important to gather all of the positions and opinions of all of the State departments, consultants and peer review groups.

Phase I Report: The Health of Island County Wetlands

The first thing we did was look at our own conditions here in Island County. This step was taken to understand the effectiveness of Island County's wetland protection dating back to 1985. Island County was the first jurisdiction in the State of Washington to adopt wetland regulations. Using mapping, aerial photography analysis, reviewing previously issued permits and utilizing 22 years of experience in wetlands, the Department went out with property owner permission and visited 100 wetlands to evaluate health of the county's wetlands.

Phase II Report: Best Available Science

The Phase 2 report, titled, "Best Available Science for Wetlands of Island County, Washington: Review of Published Literature". This report essentially looked at existing literature pertaining to wetlands, trying to discern whether or not that literature applies to circumstances in the County. For example, science that is applicable to an alpine wetland in the Rockies would not necessarily have relevance here in Island County. With this information staff began working on the initial draft proposal.

Purpose: To ensure that the Island County wetland protection program is based on information that is relevant to our local circumstances. The task was to evaluate the science. The State Department of Ecology put out some guidance documents to help local jurisdictions through this process; this document and any newer science published after the guidance document were reviewed and taken into account in the development of the Phase II Report.

These are some of the guiding principles used as the County moved through this process. Island County opted to develop a Protection Program that recognizes our uniqueness, using the guidance document and incorporating certain principles of the program that DOE put together but also recognizing the unique circumstances of Island County.

The Department was trying to accomplish something that was a little easier to use than what was seen in the DOE materials, something that allowed a landowner to have less reliance on the need for a paid specialist, attempting to use words more than numbers. Some of the DOE materials focused on rating wetlands based on a score, we tried to put the rating into words that might be more meaningful and easier to talk about during such things as the permit process. The goal was to develop a program that was as user friendly as possible relying upon public education and outreach. This program is more labor intensive on the part of the County, but we wanted to capitalize upon a community ethic and awareness in Island County. People are engaged in this county so we wanted to capitalize upon the fact that people want to be involved in the process

when they are submitting a permit. A lot of our customers are one time customers who want to build their dream home. Understanding our regular customer is a person who submits a permit for a single family residence, many of the guiding principles and the initial drafts focus on how to improve services for that customer. We also wanted to build incentives into the program. Having a very aware community with great participation in programs like the WSU Beach Watchers, The Shore Stewards and 4-H, another good example of this awareness is the fact that Camano is designated as a National Wildlife Backyard Habitat. There are a lot of great programs out there and we tried to develop a system that could capitalize on all those programs and might be looked at more favorably by landowners if they had more say in how their land is managed by having more options and flexibility.

Community Outreach

Community outreach is very important. There has been a big emphasis over the last couple of years with direct mailers, different media such as KWDB radio in Oak Harbor, all in an attempt to get the word out as to what is going on. Talking more with the press, conducting workshops, trying to take information out into the different neighborhoods, rather than only at the county seat in Coupeville. The second countywide mailer was sent out in early May to all landowners providing information.

In May 2007 the Initial Draft was a Hybrid of DOE's Approach

The initial draft document expanded on DOE's guidance document with local circumstances incorporated. It had a heavy emphasis on public education and outreach, trying to bring property owners into the process. We wanted to show the property owner what may be on their property, why it's important and then provide more options and flexibility. Certain trends are encouraging, such as the percentage of land cleared on certain properties is declining. The Department tried to capitalize on this by building incentives that foster that trend to continue. Other trends needed to be discouraged from continuing by recognizing them and building the system accordingly.

Highlights of Revised Program

Back in May and June, comments from the public identified a lot of confusion regarding the initial draft proposal regarding agriculture. We had just finished a big agricultural issue in 2005 and 2006 and people were confused. It was never the intention that the new wetland regulation would apply to existing agricultural activities. This version of the proposal makes that clearer by removing language having to do with agriculture. Existing agricultural activities are regulated under a different section of rules. Agriculture has different impacts than development so there is a different ordinance. The draft rules before the Planning Commission do not apply to existing agricultural activities; those were adopted under Ordinance C150-05 in May, 2006.

That ordinance was appealed and has gone through the first phase with the Western Washington Growth Management Hearings Board, the GMHB has heard the matter and has determined it is consistent with State law and it is consistent with Best Available Science rules. The GMHB's decision was also appealed and is currently before the Thurston County Superior Court and a ruling is still pending. We wanted to emphasize that issue is separate.

Highlight Definitions

The draft emphasizes words to associate names and visuals with the different types of wetlands rather than just a numbering system. The different terms were also taken and attached to a categorization system, A through E. On page C35 of the spiral notebook, *Island County's Wetlands Update Planning Commission Draft* has the names of the type of wetland in each of these categories. It is important to refer back to the definitions in the ordinance to see what a Mature Forested Wetland is, what characteristics define Delta Estuaries, or Bogs. Each term is defined, it will talk about tree size, dominant species, size of area that is open water; a lot of emphasis is placed on determining the type of wetland by using these definitions; once the wetland is defined, the emphasis shifts into which category that particular wetland belongs.

Categories Were Attached To The Different Definitions.

A Category "A" wetland is considered a type of wetland that is the most sensitive or has the highest value, whereas the type E wetland is on the lower end and would not require the same level of protection. Each category translates into different setbacks. The draft proposal better defines and expands the existing two categories into five categories.

Category A: Bogs, Coastal Lagoons, Delta Estuaries, Mature Forested Wetlands

Category B: Large Poned Wetlands, Anadromous Fish Stream Wetlands, Wetlands Associated with a Bog, Coastal Lagoon or Delta Estuary

Category C: Other Estuarine Wetlands, Resident Salmonid Stream Wetlands, Mosaic Wetlands

Category D: Native Plant Wetlands, Small Poned Wetlands

Category E: All Wetlands not otherwise classified

The Wetland's Identification Guide

The Wetland Identification Guide is a color brochure. The first half of the guide tells an owner how to identify a wetland on their property. It walks them through the process, using more pictures, taking it out of code language and legal language. The guide looks at the water, the soils, and the plants that may exist on your property, help determine whether or not it qualifies as a wetland. The second part of the guide, once you have identified that you do have a wetland on your property would then be used to determine the buffer. This section of the guide contains the scoring sheets you would use on the application. It talks about intensity, it talks about habitat and water quality, leading you step by step to a conclusion of what the setback on your property is.

Highlights Determining Buffers

1. Under Tab C, pages C33 - C38 the bulk of information related to determining a buffer is found. This is the section most people have focused their interest in really understanding, because this is the portion that relates to how this ordinance applies to their particular property. There are four steps you have to walk through in order to determine what your buffer is or what the setback is on your piece of property.

Buffers are based on several factors:

1. Intensity of Development
2. Type of Wetland
3. Habitat Functions
4. Category of Wetland
5. Adjacent Slopes

Step 1 to Determining Buffer Size

Intensity of Development

Three Categories – Low, Medium and High, based on the intensity of the land use activity. Land Use Intensity will be determined on three considerations: The Proposed Use or Structure and the Size of the Lot, the amount of Cleared Area proposed, and the potential adverse impacts to Wetland Functions that may be generated by the Development Proposal.

High: All uses on lots less than 1 acre
 Non-residential uses on lots between 1 acre and 4.5 acres

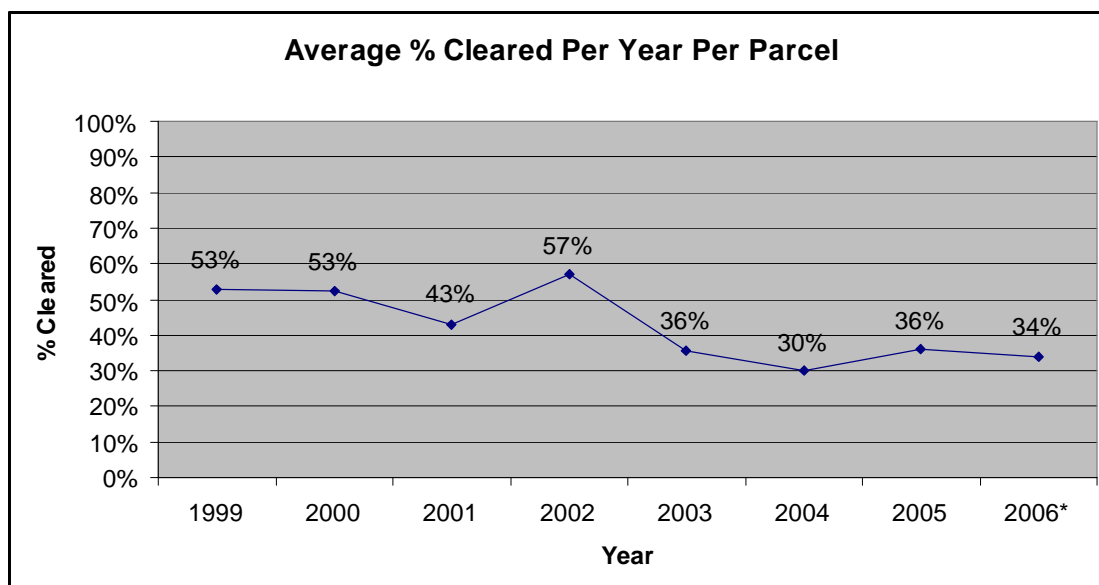
Medium: Non-residential uses on lots greater than 4.5 acres
 Residential uses on lots between 1 acre and 4.5 acres

Low: Residential uses on lots greater than 4.5 acres

Commercial and industrial types of activities would be classified as high intensity, as would residential lots smaller than an acre. The second decisive factor then becomes how much clearing would occur on a piece of property. A property that is clear-cut would potentially have more impact than if you cleared just enough property to site one home. This gives the property owner the ability to make decisions on how much clearing they would engage in on their property, which in turn would affect how big the buffer is.

<u>Lot Size > 1 acre:</u>	<u>Lot Size > 4.5 acres:</u>
High: When clearing more than 50% of lot	High: When clearing more than 35% of lot
Medium: When clearing between 25 and 50%	Medium: When clearing between 10 and 35%
Low: When clearing less than 25%	Low: When clearing less than 10%

Basis for Intensity Standards



Step 2 for Determining Buffer Size

Type of Wetland

Again, based on the land use intensity relative to the type of wetland will determine the buffer sizes. If you don't fall in one of the four special case categories listed below you would continue to the graph in Step 3 under habitat function.

Table 1: Special Case Buffers for Specific Wetland Types				
Land Use Intensity	Bog	Coastal Lagoon Wetland	Delta Estuary Wetland	Other Estuarine Wetlands
Low	125 ft	100 ft	40 ft	30 ft
Moderate	190 ft	150 ft	90 ft	55 ft
High	250 ft	200 ft	125 ft	90 ft

Step 3 for Determining Buffer Size

Habitat Functions

Determining the habitat conditions on the property and adjacent to the wetlands relates to the size of the buffer. The higher the habitat value the larger the buffer will need to be. A habitat value of less than 32 would move to the next graph for category of wetland.

Table 2: Habitat Buffers					
Land Use Intensity	Habitat Functions Score				
	50 or higher	42-48	39-51	32-38	Less than 32
Low	150 ft	125 ft	100 ft	75 ft	Use Tables 3 and 4
Moderate	225 ft	175 ft	150 ft	110 ft	
High	300 ft	200 ft	175 ft	150 ft	

Step 4 for Determining Buffer Size
Category of Wetland

Table 3: Water Quality Buffers						
Land Use Intensity	Wetland Category					
	Wetland Outlet	A*	B	C**	D	E
Low	Yes	40 ft	35 ft	30 ft	25 ft	20 ft
	No	75 ft	50 ft	40 ft	35 ft	25 ft
Moderate	Yes	90 ft	65 ft	55 ft	45 ft	30 ft
	No	105 ft	90 ft	75 ft	60 ft	40 ft
High	Yes	125 ft	110 ft	90 ft	65 ft	40 ft
	No	175 ft	150 ft	125 ft	90 ft	50 ft

* Use Table 1 for Buffers for Bogs, Coastal Lagoon Wetlands and Delta Estuary Wetlands
 ** Use Table 1 for Buffers for Other Estuarine Wetlands

Step 5 for Determining Buffer Size
Adjacent Slopes

The final factor is what is between the development and the wetland and looking at the slope. If it is a very steep slope there is going to be an additive factor built into the buffer to account for the fact that water is going to runoff a lot quicker into that wetland.

Table 4: Slope Adjustment	
Slope Gradient	Additional Buffer Multiplier
5-14%	1.3
15-40%	1.4
>40%	1.5

Reasonable Use

One of the concerns expressed regarding the proposed regulations deals with a scenario where a wetland and its associated buffer appears to take up the majority of a persons property and whether that means they would then be unable to use their property. Built into the ordinance is something called a Reasonable Use Provision. In essence, it states if these standards preclude your ability to do something on the property, such as building a house, the standards will be looked at in order to determine a way to reduce the standard to allow for reasonable use. These standards are not intended to deny a person the ability to build a home on their property. It is focused on an individual home on an individual property. Other types of development, such as a subdivision, provide the ability to make sure the lots aren't covered by wetlands or wetland buffers. New lots created wouldn't have this issue of having to provide reasonable use; it would be built into the system of reviewing the new lots.

There is a process that is undertaken when evaluating reasonable use. When an application is submitted for a home on a property that has a wetland and a buffer on that property if the application shows the home being placed within that buffer, but there is area outside of the buffer to build, the Department will be asking the property owner to review some criteria included in the ordinance.

Avoid

First priority would be to avoid the wetland and the wetland buffer.

Reduce

If avoiding the wetland and its' buffer isn't possible you would look at reducing the area designated to be cleared for a lawn or look at setting the house in a different location, moving outside of the buffer and reducing the impact.

Restore

Restoring the wetland or impact, it may be an issue of pipe running through a buffer, a temporary intrusion which would have a restoration potential.

Mitigate

When everything else is unavoidable, there are ways to mitigate the impact by either recreating the wetland elsewhere or enhancing the wetland on the property if the property has a degraded wetland.

Also built into the process is a way of looking at smaller projects and larger projects. Smaller projects that have less intrusion or less impact should be a little more streamlined. Larger projects become a public process, something that is advertised. A sign posted on the property and advertised in the newspaper and a timeframe associated with reviewing that.

The Rural Stewardship Plan

This was included in the program to encourage land owners to impose certain practices on their property that are difficult to regulate, such as use of fertilizers, managing pet waste, managing pets that run into wetlands that perhaps could have an impact on the habitat. The Rural Stewardship Plan outlines practices a land owner could apply to their property that would allow the owner certain benefits. One such benefit is the possibility of eligibility in the Public Benefit Rating Systems that provides tax reduction anywhere from 30% to 90% of property value. Another possible benefit would be to reduce the intensity of the land use which in turn would

provide a reduction in the wetland buffer on the property, thus giving the landowner more control over their property by the choices they make. It is essentially a contract that runs with the property and ensures the owners agree to do certain things on their property. It would also make the landowner eligible for expedited permit review for any permits submitted.

The Portions of the Process Completed to Date:

- ✓ State Environmental Policy Act requires the evaluation of the environmental impacts of adopting any regulations. That process has been completed.
- ✓ The draft proposal has also been advanced to state agencies for their review. There is a sixty day comment period for those agencies to respond with any comments on the proposal. That comment period has ended as well.

The Next Steps:

- ✓ Public Hearings; we are currently gathering comments and feedback from the public
- ✓ Planning Commission will deliberate and make a recommendation
- ✓ The recommendation will be transmitted to the BOICC
- ✓ The BOICC will then consider adoption into County Code possibly sometime in January

ITEMS FROM THE PUBLIC

Advised before proceeding to public comment, she asked if there were any items from the public that was not related to the wetland ordinance.

NO ITEMS FROM THE PUBLIC

Chair Val Hillers then opened the hearing for public comment on the Draft Wetland Ordinance.

Richard Loutzeuhiser, 231 Goodrich Road, Camano Island

Wanted to know if under this program, an owner dies, it goes to probate and the judge divides the property, does the plan still stay with the property?

If you had 3 lots 100' wide by 400' long lots and the owner of the middle lot builds a house, using this program to get him located in the right place, does that restrict the property on both sides as to where they may place the house on the other two?

Jeff Tate responded that it shouldn't have an effect on those two pieces of property from a wetland perspective. If the wetland is on your property the buffer may extend to the other property, but not simply by where the middle owner chose to build. The only exception is a non related issue of view if it is on the water.

Mr. Loutzeuhiser stated he was referring to a situation where all three lots have the same wetland running through them.

Mr. Tate responded that the wetland would be regulated equally for all three pieces of property. The Department would try to encourage the owners to use joint driveways to access the property

so there is only one driveway going through the wetland. It is not always possible, but it is the starting point.

Mr. Loutzeuhiser provided congratulations to each and every one that has worked on this. He stated he thought this was really very good, he enjoyed seeing this kind of work done for our county.

Ron Wells 175 Triangle Cove Lane, Camano Island

Stated he recognizes there has been a lot of work done on this, but it is confusing. Stated he hadn't read through everything but it seems like with two identical five acre parcels with a stream running through the center of them, you can kind of do favorites with people. Asked if someone wanted to put a tennis court on their property would be one set back but if someone wanted to put in a horse pasture there would be a different setback?

Jeff responded that there is a complexity to this proposal, but it has a lot more flexibility by looking at site specific characteristics. There will be different outcomes with different proposals. With the increase of the intensity of activity on a property the buffer increases. If the impact of the activity is smaller so is the buffer.

Mr. Wells stated he feels it should be very clear, black and white. If it is a certain stream it should have a certain setback regardless of what people do. He stated this leaves it open to interpretation of a county official on how they want you to use your property. Feels it shouldn't be that way. He feels the setback should be the same regardless of whether you put in a tennis court or a horse pasture.

Chair Hillers reminded Mr. Wells that the example of the horse pasture is under the agricultural ordinance and would not be regulated by this ordinance.

Mr. Wells asked if you put a horse on your property all of the sudden your in agricultural zoning?

Mr. Tate explained there is existing agriculture and new agriculture, which is grandfathering and is the same as you face with any type of land use activity; existing houses in wetlands are treated differently than new houses in a wetland. Existing agricultural activities have a very clearly defined set of regulations, new agriculture, for example a person with a five acre piece of property with a wetland and they want to put a horse on that piece of property would have to abide by the 1985 regulations, which is where it becomes more confusing because the State Legislator has enacted a rule that says county's shall not adopt new regulations for agriculture until The University of Washington and Washington State University together work through some agricultural issues statewide over the next couple of years. That landowner would actually come in under the older set of regulations although built in to the new regulations are provisions that give the owner the right to choose to come in under the new regulations.

He further explained as long as the protection standards are met there are options for the landowner to use.

Mr. Wells stated one would think if there is a stream set back there is a stream set back. He asked Dr. Paul Adamus if that was true.

Paul Adamus responded that there needed to be flexibility in order to meet Best Available Science; you need to treat different situations according to the intensity of the activity. There are very clear detailed criteria that everybody can understand; it is not up to the discretion of the county.

Jeff Tate stated there is legitimate concern about how much discretion does the Department have on deciding what happens on your property. First of all there is specific criteria built in but there is also the ability to challenge the staff position to a higher authority. There are checks and balances.

Ron Wells Stated most of the examples given relate to building a house, stated he would like to understand how this relates to someone wanting to go over a creek to get up to their other piece of property, but your not building or planning on building would you be able to do that?

Mr. Tate responded that the ordinance has a lot more provisions in there for how to accessing pieces of property of how you can utilize pieces of property beyond just building. The presentation focused mostly on single houses, but there are other statements in the draft ordinance explaining what would need to be done to achieve that.

Chair Val Hillers encouraged Mr. Wells to make a written comment if there are specific pieces of that document that he finds confusing.

Mr. Wells wants to know how long it would take to help a prospective buyer determine what can be done on a piece of property they may be interested in.

Jeff Tate stated he would break that into three different answers.

1. Currently the County does not offer a service of going out to look at a piece of property, not that it isn't done at times, but generally speaking unless there is a permit on hand we don't go out to a property. With the implementation of this ordinance we will be including a service where we will come out and verify if there is a wetland and will tell you what we think the buffer is. Again it is challengeable; you could hire your own wetland consultant.
2. The second piece is during the permit process you will need to turn in the sheets attached in the Wetland ID Guide, but we won't be asking you to hire a consultant, the County would provide someone that will go out and verify whether or not the sheets were filled out properly and help the owner with that process.
3. It is not until applications for subdivisions and commercial development are submitted that the Department will require a professional report to be turned in on an application.

Rufus Rose 6529 Four Sister Lane on South Whidbey.

Expressed his thanks for the prompt & complete minutes from last weeks hearing, stated they were available online & encouraged those interested in this process to go online & read them.

Stated he hoped the turn around time this week would be as quick to for those on the south end who would benefit from reading them prior to the next hearing.

Regarding a common wetland covering several properties, stated he was curious as to what standing a contiguous neighbor would have about potential blocking of a modification of a common wetland, but the modification being only on the other property. Doing any number of things that requires property A to reach an agreement with the County and property B says I don't want property A to do that. What standing would property B have?

Jeff Tate replied it depends on the scale of the project, first of all the review of a proposal looks at hydrology and other potential impacts, not just to that property, but making sure it won't have an impact on that adjacent property. With that being said, if it is development which actually occurs within a wetland, which is pretty uncommon, it is usually development within a buffer that the County sees, but if it is development activity within a wetland itself, it does require review through a public process. A State Law under SEPA requires any fill on lands covered by water, which includes a wetland would have to go through a process and that neighbor could challenge the decision and have some standing at that point.

Mr. Rose asked if that was resolved at that county level or whether it went on to the lawyers.

Jeff Tate replied that the appeals are resolved through the Island County Hearing Examiner, but decisions of the Hearing Examiner can be further appealed to Superior Court.

Mr. Rose stated that what he had in mind was an elevated walkway across a swamp and maybe the neighbor thought it was unsightly and they just said I don't want to look at it.

Mr. Tate explained the appeal process and what goes before the Hearing Examiner has to be based on merit and legitimacy of impact. The appeal process cannot be based on emotion or popularity. If you meet the standards of the code, you meet the standards of the code.

Mr. Rose stated he agreed that the mapping of the island did not cover even half of the wetlands that exist. Vacant land is frequently sold, owned by someone that is out of state who doesn't know what the property is like and frequently it is listed by an agent that isn't interested in going out and looking it over. Therefore, a prospective buyer could buy a property that has a wetland that requires review and didn't know it until they went in for an application. The real estate industry is very sensitive to that because their reputations are on the line. He stated he hoped this would be considered as the process is finalized. He also said didn't have a solution but it is a very important professional issue for real estate people. Many are very busy or unable to walk the property to determine what it may or may not have despite how it may currently be mapped. Stated he hoped this issue would be considered and that there may be some way to ease the pain for the new owner.

Mr. Tate asked whether the new practice mentioned, of the County going out to new properties without a permit to help determine what is there would help alleviate that concern.

Mr. Rose stated that it may, but the industry remains concerned about the sales that occur on properties that are bought and sold sight unseen and these new owners may end up stuck when it comes to trying to use their property.

Dan Weaver 630 Chapman Rd., Camano Island

Stated he would be curious to find out the true information of the \$165,000 that was spent to a Chapman creek watershed inventory from the trout people over in Duvall. What was the outcome of the classification of the Chapman Creek after their assessment?

Jeff Tate stated he would be happy to get into that, but he wanted to make it clear that this is a wetland ordinance, not a stream ordinance and they are regulated differently.

Mr. Weaver stated it was connected to a critical area according to the County.

Mr. Tate stated if it had a wetland on the property you are affected, if you have a stream the stream classifications are established through the Department of Natural Resources. The setbacks are established through County ordinance and they will be considered in 2008. There will be a similar process to update the stream regulations, but this wetland ordinance doesn't really apply to Chapman Creek per se, it would apply to wetlands that are attached to it.

Jeff Tate explained that you wouldn't find in this Wetland Ordinance the stream regulations. Part one is the Wetland portion, part two will address streams and it will be conducted in 2008. The rules today for streams are the same as they have been since 1998, which is the type 1, 2, 3, 4 and 5 system and it will continue to exist until it is revised through this same process next year.

Alison Warner 14315 – 150th N.E. in Arlington, a property owner on Camano Island

Stated she had a few questions regarding the complexity with respect to determining the intensity of the use and having to correlate so many different things. She stated she can see the clients' difficulty with having some kind of predictability in relation to property. Stated she understands there is a lot of science behind it and is well crafted in that sense, but as someone who works in the field she stated she is concerned that the success is not very realistic. Feels there will be a lot of legal challenges, feels the code enforcement challenges are going to increase because the property owner will feel they know what they are doing. Stated she is a soil scientist and feels a few pictures in a guide will not be enough.

One of her questions relates to how the process is going to work, will a staff person go out and do a site review of any permit application?

Mr. Tate stated there would be. Ultimately if this is adopted the Wetland ID Guide that has perforated sheets in it would be completed by the applicant and required to be submitted with Clearing & Grading, Septic, Building, whatever it may be and they will all be routed to the staff that reviews critical area issues and site inspection is one of those built in pieces. The Department feels there are several checks in the system to communicate with the landowner what information we have, but prior to any disturbing activity there would be a site inspection.

It will be site review regardless. Those materials will be required irrespective of what the maps say. Every permit will be reviewed and checked to make sure for completeness to determine that those sheets are in there. It does provide a trigger up front when we are reviewing from the office we can gather a little bit more information based on our maps, based on previous site investigations, based on aerial photographs. One of the things that will be valuable is involving the landowner more in knowing about what is on there property.

Ms. Warner stated the other question she had related to the intensity of the use related to the buffers. For the long term, a property owner comes in and says they are only going to clear 25 % of the property, so they only have a 35 foot buffer on their estuarine wetland. Then it gets sold and they want to build something more intense, how do you go back retroactively. It seems like we are not protecting the wetlands for the long run, we are connecting it to land use so that we are continuing this problem of grandfathering in uses that are not protecting the wetlands.

Mr. Tate responded that there will be requirements in terms of use, if only 25% of the property is cleared on a property and it allows you to stay in a lower intensity category you won't be permitted to increase the intensity of the use of the property. You will still be able to achieve certain uses but the restrictions stay with the property.

Ms. Warner stated that this system allows a person to clear one acre of the 5 acres they own and that would allow them to actually clear right up to 35 feet from a mature forested wetland and that cannot be undone. It is creating a legacy that cannot be undone utilizing this system of intensity of land use to help regulate and create the buffer. Stated she also thinks it's creating a situation where different landowners will be unhappy because the guy next door did it and they can't.

Mr. Tate responds to the mature forested wetland example, that house and that lawn may be allowed to move a little closer to the wetland but the trade off is that you are protecting habitat beyond just a standard buffer. There is the remainder of the property that has its' trees and natural vegetation. It does take the house and shift it around a little bit, but the idea is there is a trade off that there will be habitat benefit for the remainder of the property.

Ms. Warner's wanted to know how this ordinance tiers to State regulations and Department of Ecology. She stated the definition of bog was pretty loose DOE has a bit more stringent definitions of bogs. It isn't just based on the type of vegetation that is there, it also has to do with the acid in the soils and testing for the acidity. She stated she has had situations before that things didn't technically meet the definition of a bog, but if you were testing the water for the acidity level there not meeting it because of impacts that have occurred in the past. Your definitions and rating system, that you have devised completely on your own, somewhat based on DOE, however as a wetland consultant when we have problems that the county or city doesn't agree with then we go to the State and have either the Army Corp or State Department of Ecology, they have the authority to come in and say no, this is what this is, I want to know how that works in this case.

Keith Dearborn responded stating that first of all DOE has reviewed our system and has made suggestions for change, all of which have been incorporated and they support what we are doing.

We have reviewed for several types of wetlands, the buffers that would be created under the DOE system and our system and they match up quite closely. As to the definition of bog, that is the definition out of the DOE wetland delineation manual, it is identical to their definition, we haven't made any changes. There is a reference to PH as well as bog species on page C-5.

Ms. Warner stated in terms of the question what it brought to mind is how is this wetland ordinance, because you aren't using the Washington State Wetland Delineation Manual, you're doing your own delineation.

Mr. Dearborn replied we are using the delineation manual; we are just not using the rating system. This system has been worked carefully through with Department of Ecology so that we could demonstrate to them, and we have, that it does the same thing as the State rating system and they have become convinced of that. The only thing we have done is simplify the State system so that people can get their hands around it and try to understand it and not always have to hire a wetland specialist or consultant to do the work for them.

Ms. Warner's response was that she doesn't think you have simplified it.

Joan Schrammeck 1067 Scenic Ave., Camano Island

Had a couple questions regarding the maps, are there plans as people identify new wetlands on their property that the new information will feed it into some kind of new system that will last.

Mr. Tate replied our wetland maps are based on national wetland inventory, which is common. It identified about 600 wetlands in the county. When we began this process back in 2005 we went through all our permits issued since '85 and added all those wetland delineated on the computer so we added essentially 400 wetland to the map, they existed, they just weren't on the map. There is a multi-faceted process that would be driven by the landowner saying your map says we have a wetland, but we don't the County would verify that and if they are correct we would take it off the map, other instances would be adding wetlands that weren't identified before. It will be continuously evolving, they will be added or subtracted according to what is found in the field and released periodically, possible every quarter.

Ms. Schrammeck asked if the maps would be accessible to the public.

Mr. Tate stated they are online, just not in this format. Once this process is concluded new maps will be available on line with all the color and categories and we would be continuously updating them. We would also be looking at ways to make it a little more interactive as well. Those are goals we are looking at.

Joan Schrammeck

Asked about the low, medium and high intensity development and what it might look like, asked if it is defined in the book. She is more interested in the high intensity development requirements.

Mr. Tate responded that page C33 is the start of the land intensity section, which goes through and describes what the different intensity levels are. There is a more rigorous process that is

behind the review of those more intensive developments, in that the burden falls more on the applicant to submit the information up front by hiring specialist to conduct delineations and such. The graphs on C37 & C38, high intensity activities have buffers that are three and four times the size of a low intensity activity.

Ron Wells 175 Triangle Cove Lane.

Asked for clarification on the Public Benefit Rating System restrictions that run with the land, is there any way those restrictions removed?

Jeff Tate stated the option was to either keep the restrictions on the property if it is sold or to remove them. Removing those restrictions imposed on a property that had been part of the Public Benefit Rating System, which provides tax benefit in the form of a tax reduction, between 20 – 90 percent for landowners who provide more protection to critical areas than what the Code required would require paying seven years of compensating back taxes.

Alison Warner

Had another question regarding the SEPA process, the latest version came out October 15th and the SEPA was done last summer. It was advertised and done on an earlier version of this ordinance. She stated she was confused about that process. How do you do SEPA for something that is not in its final version?

Jeff Tate responded that the SEPA Threshold Determination was issued on the proposal that was put out to the public around the end of May. A threshold determination was issued on that proposal; the obligation on the County at that point is to determine whether the proposal has changed enough to issue a different threshold determination. We have not issued a different threshold determination.

Ms. Warner asked why if the County new there would be another version, why would they not wait and do the SEPA Threshold Determination on the final version. Why is it done in the middle of the process when the public input had not been compiled?

Mr. Tate stated the SEPA public comment period overlapped with the workshops and the other public outreach efforts the County was engaged in. It was thought to be best to have all the public comment being submitted on the proposal. When we issued the SEPA Threshold Determination, we weren't convinced there would be a different proposal. There have been some adjustments made to the proposal but the issues modified were not in the core of program.

Ms. Warner asked whether the comments from the Agencies was a part of the SEPA process or was it a separate track.

Mr. Tate advised it was a little bit different because State Law allows State Agencies to have 60 days to comment on the proposal. The SEPA comment period and the State Agency comment period had overlap to them, but their comments came during SEPA and we received some comments after SEPA also.

Dan Weaver 630 Chapman Rd., Camano Island

Wants to know if the buffer program would shrink the size of the taxable usage land? If you can't use the land because of the buffer does it change?

Mr. Tate responded that this had come up at the last hearing as well and the Department has asked the Assessor to provide information on this subject. Mr. Tate stated that when properties are assessed where wetlands are present, sometimes it adds to property value and sometimes it detracts from property value. There are also comparable sales they look at. These are all things we hear about but we need the Assessor to provide a formal response to that. We plan on having the Assessor attend one of the December meetings.

Wayne Havens moved to adjourn; Deb Eidsness seconded the motion, which carried unanimously.

Meeting adjourned at 8:45

Respectfully submitted

By Paula Bradshaw
Administrative Assistant to the Planning Commission