

**ISLAND COUNTY PLANNING COMMISSION
SUMMARY MINUTES
TRINITY LUTHERAN CHURCH GYM, FREELAND, WA
TUESDAY NOVEMBER 27, 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

Scott Yonkman, Val Hillers, Mike Joselyn, Ray Gabelein, Sheila Crider

APPROVAL OF THE MINUTES

November 13, 2007, November 20, 2007

Scott Yonkman moved to accept the minutes as written, Sheila Crider seconded, motion carried unanimously.

ITEMS FROM THE PUBLIC

NONE

UNFINISHED BUSINESS

Public Hearing to review the Draft Wetlands Critical Area Ordinance.

Chair Hillers advised the subject of tonight's hearing was the Draft Wetlands Ordinance, beginning with a presentation by the Planning Department followed by public comment.

Planning Staff Presentation

By Director, Jeff Tate

Mr. Tate thanked the audience for their attendance and polled the audience to determine how many in the audience were new to what the County is proposing for wetlands and found most were familiar with the steps that had been taken to date, but there were a few who indicated they were new to the process.

Background

He explained the process to update the county wetland regulations began two years ago as required by State Statute. Periodically all cities and counties in the State of Washington have to update their wetland regulations. The County's wetlands regulations have been in place since 1985. The County has 23 years of experience in protecting & regulating wetlands, but they really haven't changed over that timeframe. The process of updating wetland regulations 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.

Public Hearing

Tonight is a public hearing, which is an opportunity for citizens to approach the Planning Commission and provide remarks, comments, opinions and thoughts about the proposed draft wetland regulations. It is an opportunity to ask questions, provide input and express an opinion on the different aspects of the proposal. It is very helpful for the Planning Commission to hear specifics, if there is a particular section of the Code that is troubling, it is helpful to point the Planning Commission in that direction to better facilitate their deliberations. This is the last of three hearings; last week a hearing was held on Camano Island, the week before on North Whidbey in Oak Harbor.

November 30th has been determined as the deadline for public comment.

Public Meeting

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. They talk amongst each other, they ask questions of staff, they talk about what they've heard in public hearings and evaluate written comments; all of this is what helps them ultimately come to a recommendation that they will forward to the Board of County Commissioners.

The Process Began by 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.

WHAT IS THE BASIS OF THE REGULATIONS?

The spiral bound tab book is the core of how the regulations are proposed for amendment. The basis for those amendments comes out of two different documents.

1. 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 23 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. Evaluating wetland features such as what the buffers looked like, what vegetation existed within the wetlands and habitat conditions.

2. 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.

CAN THE NEW REGULATIONS ELIMINATE THE ABILITY TO USE PROPERTY?

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.

HOW ARE AGRICULTURAL USES AFFECTED BY THE DRAFT PROPOSAL?

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.

HOW ARE THE WETLAND BUFFER SIZES CHANGING?

The current standards have two different types of wetlands, Category A and Category B. Category A requires a 100 foot buffer and Category B requires a 50 foot buffer.

The proposed regulations go from a two category system to a five category system. 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.

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

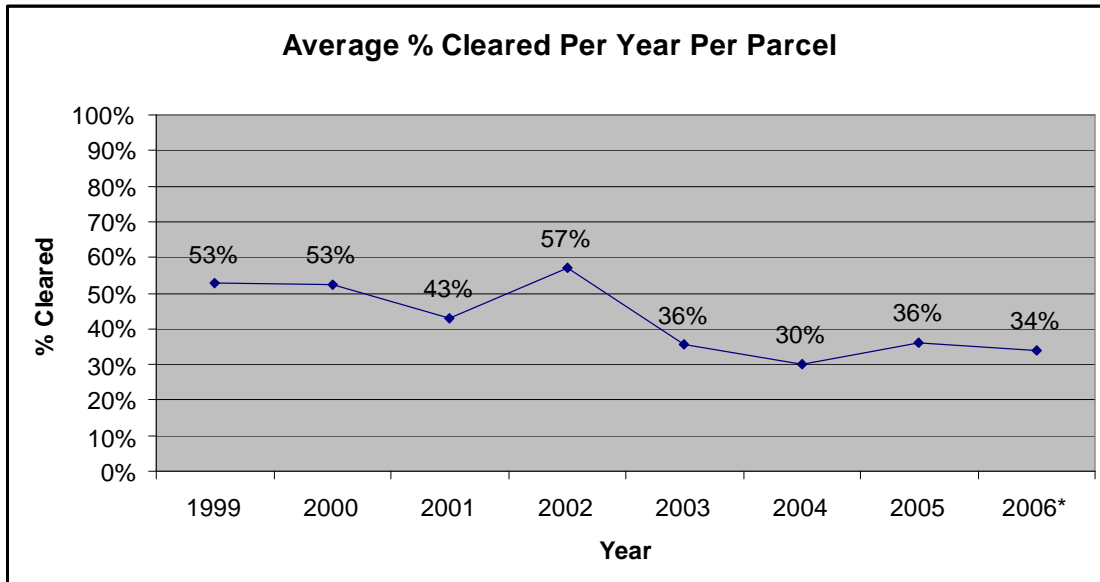
Three Categories – Low, Medium and High, based on the intensity of the land use activity. Land Use Intensity will be determined on three considerations: The Proposed Use or Structure and the Size of the Lot, the amount of Cleared Area proposed, and the potential adverse impacts to Wetland Functions that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

HOW BIG DOES A WETLAND NEED TO BE IN ORDER TO BE REGULATED?

Today the standards are based on zone. There is the Rural Zone and then there is everything else. In the Rural Zone a Category A needs to be an eighth of an acre to be regulated. In other zones it needs to be a quarter acre before it is regulated. For Category B in the Rural Zone it would need to be one quarter acre in size in all other zones it would need to be an acre to be regulated.

The proposed regulations have a much different scenario. All Categories A, B, C, & D wetlands that are a thousand square feet are regulated. For Category E wetlands it is five thousand square feet. Much smaller wetlands will be regulated under the proposed regulations than what has existed for the last twenty-three years.

HOW WILL THE NEW REGULATIONS BE ENFORCED?

1. Building permits will require submittal of the worksheets found in the Wetland Identification Guide. This will provide more information and understanding about what is on a piece of property. This self evaluation will engage people at the outset to better understand what is on their property and why it is important to protect it.
2. The property will be visited by staff in order to verify the information.
3. In the current enforcement experience there are no repeat customers, it is a one time issue and the Department feels the same type of experience will apply with the new regulations.
4. Wetland enforcement continues to remain the number one priority in the Departments' Enforcement Division.

How you define a wetland is not changing. That regulation is established above County Code. State Law establishes what the definition of a wetland is. Generally you have to meet three criteria: soils, water and plants have to be present. If it is a wetland under existing rules it is a wetland under proposed rules. There is no change there, what is changing is that smaller wetland sizes will be regulated. They are harder to find, it is harder to know they exist in forested areas. It will all be very challenging to understand and ensure the property owner is aware of the requirements. The other piece that is changing is that in some instance the buffers will get bigger.

ISN'T THERE AN EASIER WAY?

The science is complicated; we have tried to build a system that eliminates or reduces the need to have the customer have to hire a specialist to help them determine if they have a wetland and if so what the buffer is. It empowers people to do a little bit more of their own work.

Today's system is much easier, much more black and white but it is not supported by the science.

Background Guiding Principles

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.

ARE THERE OTHER OPTIONS FOR MY PROPERTY ?

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.

WHEN WILL THE NEW RULES GO INTO EFFECT?

Once the Board of Island County Commissioners adopts new rules they go into effect ninety days after that adoption.

Chair Val Hillers stated she hoped the audience had been able to review the materials on the wetlands. She explained during this part of the process, the Planning Commission is here to listen to comments from the public; it will help shape the recommendations that are made to the Board of Island County Commissioners. She also encouraged the audience to submit written comments, which will become part of the record. She advised staff will try to answer questions and she asked the audience to be as specific as possible in their questions. If there is a particular portion of the ordinance that is troubling, now is the time to bring them to the attention of staff and the Commission and those concerns will be addressed as part of this process.

Chair Hillers opened the meeting to public comment.

GayLynn Beighton 2507 West Beach Rd., Oak Harbor

1. Concerned about policy #8, page A-1: Suggested the last sentence that continues on to page A-2 be struck. The State mandates no net loss of wetlands and in lieu fees will undoubtedly result in a net loss of wetlands and damage to adjacent property owners because of the runoff that would happen.
2. The wetland rating map for North Whidbey designates Swan Town Creek as a Category E wetland. She stated there is a disconnect with the Washington Department of Fish & Wildlife, A letter submitted to Island County on May 20, 2007 from Doug Thompson, their biologist, wherein he indicated Swan Town Creek was a Category B wetland. Not sure if the Category B wetland he was referring to in May is the same as a Category B wetland in this proposal.

Chair Hillers asked for specifics of the subject on page A-1.

Ms. Beighton replied it was the portion that talked about onsite mitigation and if onsite mitigation is not possible then it states you can do offsite mitigation, but then it says if you can't do offsite mitigation you can pay an in lieu fee. She said she had personal experience with in lieu fees for parking and it was a nightmare. She said she could see the same kind of problems with allowing someone to pay their way out of protecting the wetlands.

Commissioner Yonkman asked if Ms. Beighton was suggesting the policy be modified.

Ms. Beighton stated she would like the last sentence struck, if there's a wetland, there's a wetland; there is to be no net loss of wetlands and if it can't be mitigated onsite and if it can't be mitigated offsite then it can't be built on. If we did this we would lose all our wetlands, we would basically be able to buy our way out of wetlands.

Steven Erickson speaking for Whidbey Environmental Action Network

Provided preliminary written comments to the Planning Commission; they would be submitting more. He stated there are some good points about what is being proposed, but there are a lot of problems.

There is an overarching problem because it doesn't take a landscape approach to wetland protection. Science is clear that even with excellent buffers if the rest of the watershed is not protected in terms of the change of land cover and runoff you're going to lose your wetland function. He stated he was particularly referring to deforestation and creation of impervious surfaces. He stated they were not addressed in any kind of systematic way. He said it goes beyond the ordinance and needs to be addressed.

He stated if you have more than 10% impervious surface in a watershed then you will seriously degrade habitat function. Currently the only limit on impervious surface in the ordinance as a whole is either at that threshold or above it and they don't apply to the most common type of wetland, those with family residences.

He stated he notice the Rural Steward Program had forest retention provisions in them and that is really good, but those are voluntary. He stated the county needs to be requiring retention of forest cover over all, not just around critical areas.

He also stated there was a major loop hole in the current regulatory scheme that is carried through. Someone can say they are not going to convert to a non forest use and then log under State regulations, which are weaker in regards to protecting wetlands. Then in six years they build a road through the wetland or the buffer they can convert it at that time and the road is grandfathered, even though it would not have been allowed initially. The easiest way to deal with that is for the County to use the authority it has under State law and declare the entire county as likely to convert to a non forest use. He stated that is really what is happening, other than the Rural Forest Zone.

Another major problem is that the ordinance says no project will ever be denied, based on impacts to wetlands. That is what it says explicitly. It is couched in terms of reasonable use. Similarly the current prohibition on creation of new lots that are entirely wetland and buffer or that require directly impacting critical areas to develop is removed. There is some portion of the ordinance that may override that so that those lots couldn't be developed, but it is very unclear.

Mr. Erickson stated he believed there is inadequate protection of Mature Forested Wetlands. He said there is also a problem, generally with so called native plant wetlands, which tends to include most of the forested wetlands in the county. The buffers that are established do not necessarily take the possibility of windthrow into account to maintain their habitat structure.

He said he understands the intent was to provide a user friendly ordinance that was very site specific to avoid a one size fits all. The ultimate result is a very complex ordinance that will be hard for the County to administer. He does not think the goal has been reached.

Marianne Edain also on behalf of Whidbey Environmental Action Network

he Wetland Identification Guide, the plant portion is a good start, but the reference in it that says if this is not good enough just use Vascular Plants of the Pacific Northwest by C. Leo Hitchcock & Company. Hitchcock is not something that the average person would find very easy to use. She stated that such a guide was a good thing for basic understanding; she stated it doesn't substitute for someone going out and doing delineation.

Back in 2004, WEAN went to the trouble of proposing amendments to the wetlands ordinance, paid an \$800 fee and then felt their proposal was ignored. In 2005 that matter went to the Hearings Board and the County settled by allowing WEAN to resubmit in 2005 without paying a second fee. To this date, she doesn't feel their proposed wetland ordinance amendments have been addressed. She also stated she believes if they had been this document would not be as complicated as it is.

Ms. Edain further stated because this is so complicated and they have not had very much time to understand the implications and how the various pieces fit together and how each piece relates, she felt the end of this week is too short of time to make genuine useful comments. She asked for an extended comment period.

One specific point she wanted to make is that she believes we are looking at reduced estuarine protection from the current flat 100 buffers, she stated these wetlands are sensitive and cannot tolerate reduce buffers.

Regarding in lieu fees, in what ways do these fees contribute to restoring or protecting wetlands? Theoretically they are being handed over in exchange for damaging wetlands.

What mechanism exists for the County to increase the wetland buffer when the intensity of use on a property increases?

She also stated there are sections, paragraphs and sentences that are terribly garbled and very difficult to understand what was intended. Laws should be very clear, as an English teacher, she will try provide specific comments and rewrites.

Suzannah Dalzell 3771 Woodland Hall Lane

Suggested for the incentives for the stewardship plan, knows that in the PBRS there is incentive for restoration, but feels it would be good to have something in the Stewardship Plan, not only for restoring what is there or not there, but also for ongoing stewardship of restoration. A wetland set aside will not always stay a functioning wetland. It needs to be stewarded for a long time to make sure that the invasive plants don't come back in.

Another suggestion to address the complicated guide is to have a volunteer core with people who really love wetlands and have general knowledge of wetlands to be able to go out and talk with people on their properties.

Chair Hillers asked for clarification related to the process of a person scoring their own wetlands through the development proposal process.

Jeff Tate

The worksheets will become an application submittal requirement for building permits and other types of land use applications. Staff will ensure the materials are submitted with the application, staff will then evaluate the answers to those questions and compare those to aerial photographs, the maps and other resource information in the office. Ultimately a site investigation by staff to make sure the materials submitted are accurate would also be built into this process.

Another service that will be included as part of this package, has to do with awareness. The Department regularly gets requests from the real estate industry, contractors and property owners to come to a property to find out what is there, whether it is in advance of purchase or simply just to know. That is a service that will be built into this system to help people learn about what is on the property and how their property is regulated. The worksheets in the Wetland Identification Guide would be used as a precursor to the service of going out and conducting an investigation without a permit.

Jeanne Hunsinger 4639 Saratoga Rd., representing the Hunsinger family the extended Frei family and the Frei Family Tree Farm

Wanted to thank the Planning Department, Keith Dearborn and Dr. Adamus for their brainstorming and the tremendous amount of work that went into this plan. She stated she appreciated the approach that was taken.

Wants to talk about 4 specific concerns:

1. Concerned about inequity that results from the cleared area percentages found in section 17.02B.090 D4, located on page C-34.
 - a. She gave an example of two neighbors, one has 4.5 acres and one has 4.6 acres of land. To be classified in the medium intensity category a landowner with 4.5 acres can clear as much as 2 ¼ acres of land, while the 4.6 neighbor can only clear a maximum of 1.61 acres. Because the second land owner has 1/10th of an acre more he has to keep over half of an acre more in un-cleared land to be considered for this same potential buffer reduction. She stated she saw this as unfair.
 - b. One person owns 4 acres another owns 10 acres. In each of these situations in order to be classified in the low intensity category for buffer reduction less than one acre is all that can be cleared. The four acre person would be required to leave just over three acres un-cleared, while the ten acre person would be required to leave just over nine acres un-cleared. It is clearly inequitable. She feels it would be less discriminatory to apply whatever percentage is chosen consistently as a uniform per acre ratio. That way each acre stands on its own.
2. Concerned about the longevity of the Rural Stewardship Plan, by requiring that the agreement be recorded on titles, so that it remains in tact when ownership changes as the plan is currently written. The originator of the plan controls the use of the land into perpetuity. She stated she didn't think this was a good thing, there isn't an unlimited supply of land and this removes from those lands flexibility needed to

accommodate new landowners or changing circumstances. In order to incorporate some flexibility one option would be to have these Rural Stewardship Plans run more like the Open Space or Open Timber plans. For example under an Open Timber Plan, the current owner develops a timber management plan, they have to sign an agreement with the government, but they have the ability to opt out of that plan. They do that by paying back taxes and then are treated just as other landowners. She stated she didn't see this type of treatment in regards to the Rural Stewardship Plan as jeopardizing the wetland protection.

3. On section 17.02B.040 B 4 & 5 stated she believed fencing should only be required when there are no other reasonable means of protecting the critical area or the critical area buffer. Under # 5 she stated she believed the ability of the Planning Department to require landowners to install sign should be limited. Installation of signs seems more appropriate in the public domain. Markers would be ok to know where the edge is, but a sign is too much.
4. Finally she stated she noticed that the Mature Forested Wetland definition has changed substantially, it went from 21 to 18 and her understanding of that is it relates to new science. She also stated she is concerned about the trees included in that definition; she has a real concern about alders being included. Alders are a species that grows extremely fast, matures very fast and then dies. To include those in a Mature Forested Wetland seems inappropriate and maybe not very workable. The Western Hemlock is also very short lived.

Rufus Rose, 6529 Four Sisters Lane,

Stated he had previously spoken to the Planning Commission about proportionality. He wanted to make a graphic representation. Half of this room is very close to the 17 foot radius that is the size of smallest potentially regulated wetland. He then indicated how much area is approximately 1000 square feet. He stated the room was approximately 8,600 square feet. The largest buffer that could be required for one fifth of this room would be 36 times the size of this entire room. The entire room is one fifth of an acre, the size of a typical urban building lot. Asked the Planning Commission to try hard to visualize the size of the buffers that could be required for each type of wetland and that some kind of a limit should be devised. Having a buffer that is so much larger than the thing it is protecting is just not reasonable.

Mr. Rose spoke next regarding permanent signage, he stated there is no specificity about what kind of signage would be required, what the cost would be, what the interval would be, how that signage would be maintained during the course of emerging forests and buffers and wetlands.

It was stated earlier that existing agriculture will not be affected; he feels it will be affected very seriously by emerging forests that will shade out cultivated land or just grassland used for pasture. If existing AG land is not going to be affected as has been stated then there has to be a provision for the property owner to be able to assure their agricultural land is not affected by shading.

He stated he was also concerned that currently there is no provision for new agricultural land. With fuel cost as it is and there is much talk about the increase need for reliance on home gardening and not just little plots. He urged the Commission to make some provision for new agricultural land.

His next concern regards the minutes not being available until after the close of public testimony.

The opportunity for other people to benefit from them won't be there.

He also stated the thought the notion of having a bounty on trees because they are 18 inches in diameter is unfortunate. If trees attain a diameter of 18 inches, a landowner may choose to cut them down before they reach that diameter.

Chair Hillers called for a motion to adjourn.

Sheilah Criders, so moved, Scott Yonkman seconded, the motion carried unanimously.

Meeting adjourned at 8:25

Respectfully submitted

By Paula Bradshaw
Administrative Assistant to the Planning Commission