The meeting of the San Juan County Planning Commission was called to order by Chair, Brian Ehrmantraut, at 8:36 a.m. in the County Council hearing room, Legislative Building, 55 Second Street, Friday Harbor, San Juan Island.

Planning Commission
Members Present: Mike Carlson (out at 11:30 a.m.), Brian Ehrmantraut, Bob Gamble, Karin Agosta, Barbara Thomas, Tim Blanchard, and Stephen Adams.

Planning Commissioners
Excused: Michael Pickett

Community Development
And Planning Department
(CD&P) Staff Present: Linda Kuller, Planner IV, AICP; Lynda Guernsey, AS II.

Administrative Items

Update from Chair – Brian Ehrmantraut – No update at this time.

Minutes of the November 7, 2013 Special Meeting

Moved by Barbara Thomas, seconded by Bob Gamble, to approve the minutes as corrected. The correction was in the vote on the minutes of October 2, 2013, where Mike Carlson was listed as an abstention. That was incorrect; he had voted yes. Motion passed with seven yes votes and one abstention (Lackey).

Transportation Element – Tim Blanchard

Tim Blanchard brought forward to the Planning Commission, that at the adoption hearing for the Transportation Element, it was asked by Councilman Jarman if the Planning Commission had reviewed the Non-Motorized Plan and it was stated that they had. Tim submitted a memo, addressed to the County Council and to be presented from the Planning Commission (if approved to), that stated that the Planning Commission had indeed not reviewed the Non-Motorized Plan.

By Consensus, the Planning Commission would like the memo forwarded to the County Council.

New and Expanded Agricultural Activities – Barbara Thomas

Barbara Thomas brought forward to the Planning Commission, that at a previous meeting some time ago, she was sure the Planning Commission had made a motion to go forward to the County Council regarding the elimination of the 10 year limitation on agricultural conservation lands. Barbara had
researched minutes and audio of Planning Commission hearings and was unable to find the motion. It may have been missed by both the clerk and in the review of the minutes by the Planning Commission. There was agreement by the Planning Commissioners that they had participated in such a hearing and that such a motion had been made.

By Consensus, Barbara Thomas will write a letter confirming the motion to the County Council.

**Continued public hearing and deliberations on Critical Area Amendments**

Brian Ehrmantraut stated that the hearing was continued from last week with public testimony left open and it was agreed to go ahead and start with public testimony today.

Public testimony was opened and the following spoke:

Jack Cory, San Juan Island and on-site sewage designer  
Greg Ayers, Orcas Island  
Janet Alderton, Orcas Island  
Russell Guerry, Manager of Engineering, OPALCO

Public testimony was closed and the Planning Commission returned to Linda Kuller for her response to public testimony and to summarize her document to aid with deliberations, dated November 14, 2013, and handed out for today’s hearing. The Planning Commission then went through the document page by page.

**November 15, 2013 Critical Area deliberations on amendments to Ordinance Nos. 26-2012 (General), 28-2012 (Wetlands) and 29-2012 (FWHCAs)**

Page 2, A. Ordinance No. 26-2012 (General Critical Area Regulations), 1. Definition of Development

Moved by Stephen Adams, seconded by Bob Gamble, to adopt Option A which reads: The least risk alternative is to delete the sentence. This sentence is not in the current code and there is little documentation of any significant issues with the current code. John Lackey – no, Mike Carlson – no, Stephen Adams – yes, Barbara Thomas – no, Brian Ehrmantraut – no, Karin Agosta – yes, Tim Blanchard – no, and Bob Gamble – yes. Motion failed with three yes votes and five no votes.

Moved by Barbara Thomas, seconded by Brian Ehrmantraut, to adopt Option C which reads: “For purposes of critical area regulations, development does not include the following Level 1 temporary events and uses regulated under SJCC 18.80.060: on-site equipment repair, garage or yard sales, temporary events not customary and incidental to the property which are located on private or public property, parks or on public school properties, such as outdoor art, craft and book sales and sidewalk sales and shows; concerts or other performances; Rummage and other outdoor sales sponsored by schools or other nonprofit organizations for no more than three days per event and no more than four times in any calendar year; and roadside stands,” and adding the following wording to the end of the sentence: “and the activities associated with maintenance and repair of existing structures.” John Lackey – yes, Mike Carlson – no, Stephen Adams – no, Barbara Thomas – yes, Brian Ehrmantraut – yes, Karin Agosta – no, Tim Blanchard – yes, and Bob Gamble – no. Motion failed with four yes votes and four no votes (Carlson, Adams, Agosta, and Gamble).
Moved by Mike Carlson, seconded by Karin Agosta, to leave 1. Definition of Development as submitted with modification. The modification would be to change 24 months to 12 months, and the word “alter” to “impact” in the second sentence. John Lackey – yes, Mike Carlson – yes, Stephen Adams – yes, Barbara Thomas – yes, Brian Ehrmantraut – yes, Karin Agosta – yes, Tim Blanchard – yes, and Bob Gamble – abstain. Motion passed with seven yes votes and one abstention (Gamble).

2. DEFINITION OF NEW AND EXPANDING AGRICULTURE (Page 3 Ord. No. 26-2012 Attachment) Amend Ordinance Section 13 and SJCC 18.20.140 (“N”) definitions

Pages 3 & 4

Moved by Barbara Thomas, seconded by Mike Carlson, under New and Expanded Agricultural Activities and Table 3.8, to have it read: “New and expanded agricultural activities are permitted in areas cleared prior to the adoption of this ordinance subject to a Farm Management Plan that serves as the regulatory standard. New and expanded activities are permitted in areas that undergo clearing outside of wetlands, FWHCAs and their respective buffers after the date of this ordinance. Clearing of trees, grading and filling in wetlands, FWHCAs and their respective buffers after the date of this ordinance for the purpose of expanding agricultural activities shall only be permitted when the applicant has demonstrated that impacts have been avoided and minimized to the greatest extent practicable and that unavoidable impacts are fully mitigated.” John Lackey – yes, Mike Carlson – yes, Stephen Adams – yes, Barbara Thomas – yes, Brian Ehrmantraut – yes, Karin Agosta – yes, Tim Blanchard – yes, and Bob Gamble – yes. Motion passed unanimously.

3. GENERAL EXEMPTIONS (Page 5 in Ord. No. 26-2012 Attachment) INSTALLATION, CONSTRUCTION, REPLACEMENT, OR MODIFICATION OF UTILITY LINES Amend Ordinance Section 21 and SJCC 18.30.110(C)(3)

Page 5

Moved by Barbara Thomas, seconded by Stephen Adams, to adopt 3.a. as submitted and modified in 3.b. The modification is in the first sentence of 3.b. with the insertion of the Words: “and authorization is approved under the process established in SJCC 18.30.110.E” in between the words “exists,” and “installation”. John Lackey – yes, Mike Carlson – yes, Stephen Adams – yes, Barbara Thomas – yes, Brian Ehrmantraut – yes, Karin Agosta – yes, Tim Blanchard – yes, and Bob Gamble – yes. Motion passed unanimously.

4. PUBLIC AGENCY AND PUBLIC/PRIVATE UTILITY EXCEPTION (Page 8 Ord. No. 26-2012 Attachment) Ordinance Section 21 and SJCC 18.30.110.E

Page 5

5. NO PRACTICABLE ALTERNATIVE – AUTHORIZATION. (Page 9 of Ord. No. 26-2012 Attachment)

Pages 5 - 7


Moved by Bob Gamble, seconded by Tim Blanchard, to adopt the staff proposal as modified by deleting 6.b.i – iii, and adding the word “financial” in d. between the words “technical” and “operational”. John Lackey – yes, Mike Carlson – yes, Stephen Adams – yes, Barbara Thomas – yes, Brian Ehrmantraut – yes, Karin Agosta – no, Tim Blanchard – yes, and Bob Gamble – yes. Motion passed with seven yes votes and one no vote (Agosta).

B. ORDINANCE NO. 28-2012 (WETLAND REGULATIONS)

1. WATER QUALITY BUFFERS (Pages 9-11 Ordinance 28-2012 Attachment) Amend Section 1: SJCC 18.3.0.150.E. Protection Standards (citation correction), SJCC 18.3.0.150.E. I. (Site-Specific Buffer Sizing Procedures)

2. HABITAT BUFFERS AND HABITAT BUFFER AVERAGING (Pages 12-13 Ord. 28-2012 Attachment)

Pages 9 - 13


Moved by Brian Ehrmantraut, seconded by John Lackey, to retain the 70% pollution removal percentage but choose a different Best Available Science paper, the Zang submission. John Lackey – yes, Mike Carlson – yes, Stephen Adams – no, Barbara Thomas – abstain, Brian Ehrmantraut – yes, Karin Agosta – no, Tim Blanchard – abstain, and Bob Gamble – no. Motion failed with three yes votes, three no votes (Adams, Agosta, and Gamble), and two abstentions (Blanchard and Thomas).

Moved by Stephen Adams, seconded by Brian Ehrmantraut, that the Planning Commission suggests taking a simpler approach to water quality and habitat buffers by taking the recommendation from the DOE on categories of wetlands and land use impact categories. This approach addresses points 5, 6, 7, 8, and 9 of the Growth Boards Final Order. John Lackey – no, Stephen Adams – yes, Barbara Thomas – yes, Brian Ehrmantraut – yes, Karin Agosta – yes, Tim Blanchard – abstain, and Bob Gamble – yes. Motion passed with five yes votes, one no vote (Lackey), and one abstention (Blanchard).
Moved by Tim Blanchard, seconded by Brian Ehrmantraut, to recommend that if we adopt the Appendix 8-C approach, there may be other opportunities to further simplify the Critical Areas Ordinance (CAO). It is also necessary to review connected provisions of the CAO to avoid unintended consequences as a result of the change. John Lackey – yes, Stephen Adams – yes, Barbara Thomas – yes, Brian Ehrmantraut – yes, Karin Agosta – yes, Tim Blanchard – yes, and Bob Gamble – yes. Motion passed unanimously.

Habitat Buffer Averaging

Moved by Bob Gamble, seconded by Stephen Adams, to accept the staff proposal that states: “(E) In no instance shall the Habitat Buffer be reduced to less than 30 feet by no more than 25 percent, and the reduced Habitat Buffer must not occur along more than one-half the circumference of the wetland; and” John Lackey – yes, Stephen Adams – yes, Barbara Thomas – yes, Brian Ehrmantraut – yes, Karin Agosta – yes, Tim Blanchard – yes, and Bob Gamble – yes. Motion passed unanimously.

4. ON-SITE SEWAGE DISPOSAL SYSTEMS - Issue also applies to Ord. No. 29-2012 (FWHCA (Page 17 of Ord. 28-2012 Attachment and Page 12 of Ord. 29-2012 Attachments)


Page 17


5. DRINKING WATER TREATMENT FACILITIES.

Page 17

By Consensus, to remove this proposal, as based on the staff’s suggestion the use can be addressed under item (v) in the tables pertaining to other uses.

Page 18 and 19

By Consensus, no action needed on pages 18 and 19.
Findings

By Consensus, the Planning Commission finds that with our adoption of DOE’s Best Available Science for wetlands, the Growth Board Order sections that deal with wetlands in order numbers 5., 6., 7., 8., and 9. have been addressed.

By Consensus, the Planning Commission finds that the Growth Board Orders 1., 2., 3., and 4. have been addressed by previous motion.

Recommendations

By previous motion in these minutes, the Planning Commission recommends that if we adopt the Appendix 8-C approach, there may be other opportunities to further simplify the Critical Areas Ordinance (CAO). It is also necessary to review connected provisions of the CAO to avoid unintended consequences as a result of the change.

By Consensus, the Planning Commission recommends that in order to be prepared for the next update of the CAO that the County begins collecting County specific data and come up with monitoring protocols so that we have locally based science to work with.

By Consensus, the Planning Commission recommends that a submitted Farm Management Plan be approved by the Washington State University Extension office or the San Juan County Conservation District.

By Consensus, the Planning Commission, after considering all of the public input, addressed all of the orders of the Growth Management Hearings Board as stated below;

With regard to Order 1, new and expanding agricultural activities (Table 3.5, Page 42 of 74 and Table 3.8, Page 56) and sewage disposal systems (Table 3.5, Page 44 of 74 and Table 3.8, Page 57 & 58 of 74) have been addressed, as shown in the ordinance that will be completed.

With regard to Order 2, the exemption of transmission and utility lines has been modified (Page 12 of 74).

With regard to Order 3, the Planning Commission has revised the definition of “development” (Page 7 of 74).

With regard to Order 4, the County’s public agency and public/private utility exception has been deleted (Page 14 of 74).

With regard to Orders 5 – 9, the Planning Commission recommends that the San Juan County CAO adopt buffer widths and wetland types of the Washington Department of Ecology. See Wetlands in Washington State Volume 2: Guidance for Protecting and Managing Wetlands which has been determined to be BAS for wetlands. The same publication is also the basis for buffer widths and mitigation replacement ratios listed in Wetland Mitigation in Washington State which is the standard that the Department of Ecology and the US Corps of Engineers use in reviewing and approving wetland impacts. We believe this recommendation satisfies Orders 5 through 9 of the
Final Decision and Order of the Growth Management Hearing Board as follows (GMHB Orders in bold):

5. San Juan County’s Findings of Fact relating to water quality buffers and habitat buffers are not supported by substantial scientific evidence in the record;

In adopting the DOE guidelines, the County is adopting the substantial scientific evidence contained therein.

6. San Juan County’s water quality buffer widths and habitat buffer widths fall outside the range for buffer widths recommended by BAS, without reasoned justification;

This order is addressed by adopting water quality and habitat buffer widths developed by the Washington Department of Ecology.

7. San Juan County’s water quality buffers and habitat buffers fail to protect the functions and values of Critical Area comprised of wetland ecosystems and fish and wildlife ecosystems;

This order is addressed by the County’s adoption of Washington State standards.

8. The County’s water quality buffer and habitat buffer methodologies combined with the lack of monitoring and an adaptive management program fail to protect Critical Areas from degradation and do not comply with RCW 36.70A.060;

We believe that the methodologies and guidance of the Washington Department of Ecology are acceptable to the GMHB and that by adopting the Department of Ecology approach San Juan County does not need to adopt a monitoring and adaptive management program.

9. In adopting Ordinance Nos. 28-2012 and 29-2012, as more specifically address in the body of this order, San Juan County failed to include Best Available Science in developing policies and developmental regulations to protect functions and values of critical area ecosystems and the County failed to provide a reasoned justification for departing from the Best Available Science;

Again, by adopting Department of Ecology standards for protecting functions and values, the County meets the letter and the spirit of the order.

Adjournment

The meeting of the Planning Commission was adjourned at 1:44 p.m. There will not be a meeting of the Planning Commission in December. The next meeting of the Planning Commission will be Friday, January 17, 2014 at 8:30 a.m. for administrative items and at 8:45 a.m. for any hearings, in the County Council hearing room, Legislative Building, 55 Second Street, Friday Harbor, San Juan Island.

Respectfully submitted,

[Signature]

Lynda Guernsey