

MASON COUNTY PLANNING ADVISORY COMMISSION

Minutes December 19, 2005

(Note audio tape (#1) dated December 19, 2005 counter (#) for exact details of discussion)

(This document is not intended to be a verbatim transcript)

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1. CALL TO ORDER

The meeting was called to order by Vice-Chair Steve Clayton at 6:00 p.m. Chair Bill Dewey joined the meeting shortly thereafter.

2. ROLL CALL

Members Present: Bill Dewey, Steve Clayton, Diane Edgin, Terri Jeffreys, Diane Edgin and Jay Hupp. Tim Wing was excused.

Staff Present: Bob Fink, Allan Borden, Barbara Adkins and Susie Ellingson.

3. APPROVAL OF MINUTES

None.

4. NEW BUSINESS

(#0035) Barbara Adkins: I'm Barbara Adkins with the Planning Division. This is a continuation of the hearing that we had last Monday on the Forest Practice Conversion Ordinance. I have the original draft that we went over last Monday. At that time the PAC decided to correct it and to take out any language that was not absolutely necessary to have in place and if we wanted to add things at a later time, we would go through more of a public review process to do that. I went back to the ordinance and cut out everything that wasn't directly related to Class IV General Forest Practices and sent that to you as well as sent it to DNR. DNR gave me their comments on it. I have that email that came from them along with the memo of what they asked me to put back in. I'll give those to you now. I incorporated what DNR had asked us to do. They had some changes on page 4. That went out to you and also back to DNR for them to review it. I received an email from DNR saying that the language looked good to them. I'll hand out all these copies to you. DNR said that the version we had finally come up with looked good to them. They said it was as bare bones as we could get and still be in compliance.

(#0140) Steve Clayton: On the reply from DNR dated December 14th, they have some things in here that didn't get into the draft. You didn't define the classes that they asked you to.

(#0170) Barbara Adkins: They appear in one form or another. The Class II and Class III did not need to be in

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there. I incorporated my understanding of this and sent it back to them and they said it was fine, as long as I referenced RCW 76.09 throughout the document. You don't have to go through and specifically point out all the individual items throughout it. We're just transferring and complying with everything under that RCW 76.09.

(#0235) Terri Jeffreys: What Board does the RCW refer to?

(#0240) Bob Fink: That's the Forest Practices Board.

(#0248) Wendy Ervin: Under Forest Chemicals, it talks in general terms about the use of chemicals and protecting the area. It references Chapter 8, MCC. I'm wondering if that's enough to give a person adequate reference to tell them where to go to get the information?

(#0285) Jay Hupp: Doesn't this intend to speak to the practice of conversion as opposed to what and how you can do with the land after you convert it? Use of the land is covered under other regulations.

(#0310) Wendy Ervin: Under the Indian Tribes, it talks about notifying the tribes about potential archaeological sites and they will notify the DAHP, it seems to me that there should be some kind of time frame in there for that.

(#0385) Barbara Adkins: That may be one of the things as we have more time we'll look at that in more detail.

(#0415) Jay Hupp: Where does this language come from? Does it come out of the state statute?

(#0425) Barbara Adkins: Yes.

(#0435) Jay Hupp: What's the criteria for determining what tribes are affected? As a matter of practice, do we send all these applications to the tribes? I'm wondering what the current practice is?

(#0465) Bob Fink: All SEPA's go to the relevant tribes and almost of all these permits will have SEPA. DNR determined that we will have to have a more specific provision to make sure the tribe was informed when the SEPA may not be triggered and their cultural resources may be affected. My understanding of that is the tribe needs to identify to us what areas they want to be notified on and we would notify them accordingly.

(#0500) Wendy Ervin: It says in here 'The applicant has the burden of proving that the forest practices comply with the provisions of this chapter'. If someone is harassing the forest owner by making complaints, I would like to see the burden of proof shift to the person who is just being the squeaky wheel.

(#0525) Bob Fink: In the case of enforcement, the burden is on the county to show that there's a violation. If someone is just complaining about a particular permit review, the county would weigh whatever comments came in based on their merits. If the complaints didn't have merit, we wouldn't necessarily pursue them and it would be treated accordingly.

(#0545) Wendy Ervin: Under Additional Requirements Applicable to all Applicants, you're lining out habitats and buffers, etc. It seems to me that it should be okay to do the Class I Forest Practices where it talks about the removal of diseased and dangerous trees in those buffer areas that are adjacent, at the same time the harvesting is being done on the major timber. They're there, they see the dead tree ... it should be acceptable to do the cleaning in the buffer areas at the same time.

(#0572) Bob Fink: There's no reason it couldn't be done at the same time. If they're going in to remove a danger tree, that would usually be a Class I activity. There's no permit required but the county's critical area regulations apply. The critical area regulations allow for the removal of danger trees and has standards for how to go about that.

(#0612) Wendy Ervin: So there's nothing to stop a person if they're harvesting in a large general area and they have this danger tree in an adjacent area from taking that out.

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(#0620) Bob Fink: As a matter of general information, we've run into some issues with our habitat or leave trees and the safety of the harvest and labor and industries standards for safety. It's an issue that we will be addressing next year when we look at our critical areas. Right now, the way our regulations are written for critical area protections and habitat mitigation, the person drawing up the plan for which trees to leave doesn't have to consider the safety of leaving those trees in doing this harvest that's otherwise allowed. That has created, in a couple of instances, some concern in what can be done. We want to integrate that review to make sure that when the HMP is calling for certain trees to be left that that can be done in a safe way. They will need to take into consideration not just the habitat issues but also the safety issues involved of the activity. We actually have met with the State Department of Labor and Industries to talk about it and they've offered to help us out with our regulations.

(#0675) Steve Clayton: In the Skagit County ordinance, they had their development moratoriums identified and labeled in the ordinance. We don't have that identified, however it is part of 76.09. Would those moratoriums carry over in that manner?

(#0688) Bob Fink: It's a separate chapter. That would still be in place. It's an existing regulation under 11.04. Skagit County has both the moratorium provisions as well as these new forest practice permitting provisions. We have those moratorium provisions already existing and adopted and we're not proposing to modify them. Anything after page 9 in the Skagit County draft is not relevant to this process.

(#0710) Wendy Ervin: Under Applicability, the second sentence is written in the negative. It's always a lot easier to understand if things are in the positive. I suggest striking out the word 'Unless', and beginning the sentence saying 'The requirements of this chapter' and then instead of 'are' it should say 'must be met before Mason County shall grant any approval'.

(#0735) Bob Fink: That sounds good.

(#0800) Bill Dewey: Let's go ahead and open it up for public testimony.

(#0810) Gary Hanson: My name is Gary Hanson and I live in Union. I'm a retired, consulting forester and a former member of the Shoreline Advisory Board. I found out from Allan that this is very preliminary and we will be reviewing this at a later date. Jay, you were curious about the administrative boundaries for the various tribes. Unless somebody can tell me different, I think it's the drainages. One thing that was brought up was that the neighbors could stop an activity. I think one concern you may want to discuss further is the enforcement section. Who is going to enforce it and how is it going to be enforced? The original draft had quite a bit of detail as to what was a danger tree? I think that's another issue. If you have a danger tree in a critical area, it's safety first. On page 6, it talks about relieving the county of any responsibility and leaving it on the shoulders of the landowner. The issue would be, by what procedure, be it a professional checking out the problem, or how you want to back it up, but the county can't be in a position where they would not allow a danger tree to be removed and then it causes damage. A danger tree, by definition, it needs a target. I think that's a really big issue. When you review this next year, you might think about reinserting some of the detail that was struck out. I don't know where these regulations fall into the shoreline. I assume it's incorporated.

(#0950) Bob Fink: Yes.

(#0965) Gary Hanson: I believe there is a vegetative buffer regulation that was put into the Mason County Shorelines.

(#0875) Allan Borden: Yes, it's the Fish and Wildlife Ordinance.

(#0980) Gary Hanson: In the forestry regulations, they used to have a Class V, which is basically a drainage ditch. You can operate in that, except if you have to take equipment out there, you're supposed to pick out the trees you're harvesting. Type IV stream, that's where you start getting into the 100 foot buffers. Under 11.05.130, I would be concerned that you take a really hard look at the buffer issue, even though it's a conversion. It's highly regulated and it may not allow some operations. Also, it eludes to 10% adjustment for anything in a critical area. That's very hard to define. Who is going to enforce that? I think the county and staff could get into a tough situation there. You can't just use the honor system. I do like the time

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limitations. I think it's really beneficial to have the two year approved permit, because of the cost of the permit, and the time involved for the applicant, markets change, etc. I'm just looking at these things because every situation will be different. I'm trying to think of what is the intent of the law in the ordinance and what is logical and best for the landowner and what makes it easiest for the staff to enforce. I appreciate the opportunity to give you some input. I would like to opportunity to come back next year when this subject comes up.

(#1150) Bill Dewey: We don't have any other public here so we'll close the public testimony portion of the hearing. Discussion?

(#1175) Wendy Ervin: I don't think any of the discussion we had here, except for the changes in wording in the Applicability section, requires any change to the wording that's here already. So I would make a motion to adopt it with the changes in the second sentence in the Applicability section.

(#1185) Jay Hupp: I second the motion.

(#1198) Bill Dewey: We have a motion and a second. Further discussion? Hearing none, all in favor? Opposed? Motion passes.

(#1220) Bob Fink: Emmett asked whether the PAC would be interested in having a special luncheon meeting where there could be an informal discussion with Emmett. If you are interested in doing that, then we'll schedule something in the near future.

(#1245) PAC: We would be interested in that.

(#1260) Terri Jeffreys: Bob, I was hoping that we could have some input on the work plan for next year.

(#1270) Bob Fink: There was a version of it approved by the BOCC last August. There are some modification to be made to it and we really haven't sat down yet and revisited it. When we've made those modifications, we'll bring it to you.

Meeting adjourned.