

ISLAND COUNTY COMMISSIONERS - MINUTES OF MEETING

REGULAR SESSION - August 17, 1998

The Board of Island County Commissioners (including Diking Improvement District #4) met in Regular Session on August 17, 1998 beginning at 9:30 a.m., in the Island County Courthouse Annex, Hearing Room, Coupeville, Wa. Wm. L. McDowell, Chairman, Tom Shaughnessy, Member, and Mike Shelton, Member, were present. Also in attendance: E. Meyer, Acting Clerk of the Board.

VOUCHERS AND PAYMENT OF BILLS

The following vouchers/warrants were approved for payment by unanimous motion of the Board:

Voucher (War.) Warrants # 32031-32176\$ 374,252.28.

Advanced expenditure approved in the amount of \$60,000 for the Island County Fair.

Financial Reports and General Comments

Treasurer: Current & YTD Cash Report; County Investment Report & Status

Maxine Sauter, Island County Treasurer, provided the current Expense Report for the period ending July 31, 1998. He report indicated revenues pretty much on target or a little higher, at 65.2%, and expenditures at 68.6%. The percentage at July [7th month] is 59.3%. Expenditures are running ahead of budget estimates, and compared to the previous July, by \$1,432,085, with revenues ahead of prior year by \$576,040. The Treasurer's Office has almost \$56,400,000 invested of which \$18,910,000 represents current expense residual.

Auditor Monthly Review of Revenues and Expenditures

Suzanne Sinclair, Island County Auditor, discussed with the Board previously why there was no revenue and expenditure report from the Auditor's Office, due to focusing on the annual report. Progress is being made and she is hopeful that the report will be done soon. In two weeks a second staff accountant which will help in addressing the matter. Mr. Newman, the manager for this district from the State Auditor's Office, has spoken with Elaine Marlow of the Auditor's Office, and is aware of the progress being made.

Re-appointments to northwest

senior services board

By unanimous motion, the Board re-appointed Betty Fordham, Coupeville, to serve another three year term as a member of the Northwest Senior Services Board to June 30, 2001.

HEALTH CONTRACTS APPROVED

By unanimous motion, the Board approved two health services contracts, as previously reviewed and discussed at staff session with the Health Services Director:

Consolidated Contract Amendment #C06977(4): \$21,087.

**Contract #HD-08-98, Therapeutic Child Development Contract: Between
Island County and Community Mental Health Services - \$2,310.00**

**INTERAGENCY AGREEMENT WITH DSHS – CORRECTION
TO AGREEMENT SIGNED 8/10/98**

Liz McKay, Juvenile Court Services Director, presented for approval and signature last week, the Consolidated Juvenile Services. She explained at that time that through this contract the County would receive funding: \$70,361 for intensive supervision; Option B included as carry over; SODA [sex offender money] funds provided at \$22.93 per day for every child who is an adjudicated sex offender; and added to the contract, impact funds from House Bill 3900 in the amount of \$77,732. Based on that, the Contract was approved by the Board with those figures included in the motion. Since that time, Ms. McKay became aware that the House Bill 3900 Impact Funds actually for Island County would be \$33,045 and not the \$77,732 figure earlier stated [that figure actually for Whatcom County].

The Board, by unanimous motion, corrected the record and contract, approving the Interlocal Agreement with DSHS reflecting the correct amount to show that funds received from HB 3900 Impact Funds will be \$33,045 rather than \$77,732 as previously stated.

**BOARD SIGNATURE ON GRANT #G9900038 – ISLAND COUNTY WATER RESOURCE AND
CREEK INVENTORY MANAGEMENT PLAN**

Janet Kearsley, Watershed Project Coordinator, presented for signature, Grant #G9900038 from the State Department of Ecology for the Island County Water Resources and Creek Inventory Management Plan. The grant provides \$47,706 to be used for the Coordinated Water Resource Advisory Committee, combining the Stormwater, Groundwater and North Whidbey Watershed committees into the one committee. The new committee will review completed plans to confirm what has been implemented successfully and what remains to be implemented and develop a plan. Part of the work will also be looking at a way to inventory streams for salmon. Grant period ends December 31, 2000.

By unanimous motion the Board approved Grant #G9900038 in the amount of \$47,706.

**CAMANO ANIMAL SHELTER ASSOCIATION
AGREEMENT EFFECTIVE 9/1/98**

Betty Kemp, Director, GSA, appeared before the Board with a contract for approval/signature between Island County and the Camano Animal Shelter Association, Camano Island. The agreement is proposed to begin 1 September 1998, to operate an animal shelter to provide care and housing for animals that have been impounded by the Contractor, and shelter dogs impounded on Camano Island. Some of the key requirements of the contract include: contractor assumes responsibility/care for dogs delivered to the shelter by Camano Island Animal Control Contractor who will assume responsibility for disposition of dogs 5 days after delivery to the shelter; the shelter not to exceed design capacity of 22 dogs; water usage shall not exceed 450 gallons per day or the water usage dictated by septic design as established in

writing by the Island County Maintenance Department. The County will distribute back 100% of the fees collected with a guarantee of \$2,000 per month; if fees exceed \$24,000/yr. 100% of the fees collected between \$24,000 and \$28,000 will be distributed to the contractor. Any Fees collected exceeding \$28,000 will be divided 70% contractor 30% County, with the County to use the 30% solely for maintenance and/or upgrade of the facility. Contract provides for a termination by written notice 60 days in advance.

By unanimous motion, the Board approved and signed Camano Animal Shelter Association agreement effective September 1, 1998 through August 31, 1999.

LIQUOR LICENSE ASSUMPTION, LICENSE #351445-4I, THE COZY ROADHOUSE

Having received favorable reports from the Office of the Sheriff and Health Department, the Board by unanimous motion approved Liquor License Assumption, License #351445-4I, The Cozy Roadhouse, Clinton, assumption from LISNACLOON, Inc., dba Cozy's Restaurant to LAKA Enterprises, Inc., dba The Cozy Roadhouse.

CONTRACT & PERFORMANCE BOND – Krieg Construction

As recommended by the Public Works Director, Larry Kwarsick, the Board approved the Contract and a Performance Bond with Krieg Construction, the successful bidder awarded the contract for Island County's 1998 Miscellaneous ACP Overlays on Whidbey Island, under CRP #98-08, Contract in the amount of \$479,315.00.

SIGNATURE/APPROVAL - Coastal Zone

Management Grant #G9800080

Stacy Tucker, Island County Planning Department, requested the Board's signature on a Coastal Zone Management Grant from the State Department of Ecology in the total amount of \$59,600 [\$29,800 county share] for shoreline master program revisions and phase 1 of SAM/GMA integration, to be completed on or before December 31, 1998.

The Board, by unanimous motion, approved and signed Grant #G9800080 as presented.

HEARING HELD: Ordinance #C-100-98, PLG-030-98 Ordinance Concerning Amended Interim Application Procedures Affecting Chapter 17.02 Island County Code

On July 27, 1998, a public hearing was scheduled for today at 10:45 a.m. to consider proposed Ordinance #C-100-98 [PLG-030-98] in the matter of an Ordinance Concerning Amended Interim Application Procedures Affecting Chapter 17.02 Island County Code. As explained by Keith Dearborn, the changes proposed were based on Superior Court hearing Friday, July 24, 1998, when Judge Hancock ruled based on the Skagit Surveyor's case and modified his Order deleting the conditional effective date for the comprehensive plan and development regulations. The proposed ordinance modifies the ordinance the Board adopted to match what Judge Hancock's ruling.

At this time, Mr. Dearborn explained the Ordinance presented today had been reviewed by Elaine Spencer, Bogle Gates, who made a couple of minor changes [page 2] to conform to the Judge's latest ruling. The first "Now Therefore" on page 2 has been deleted and replaced with the underlined section.

This makes it clear that the County is not adopting a new interim ordinance, but continuing the effect of the interim ordinances already adopted and that those would cease to be effective when the County's GMA Comp Plan and Zoning Code are adopted.

"NOW, THEREFORE, BE IT ORDAINED by the Board of Island County Commissioners that the interim application procedures adopted by Ordinance C-78-97 and amended by Ordinances C-50-98 and C-88-98 attached hereto as Exhibit E, shall remain in effect until Island County adopts a Comprehensive Plan and Development Regulations pursuant to the Growth Management Act, Chapter 36.709 RCW and shall cease to be effective upon the effective date of the new Island County GMA Comprehensive Plan and Zoning Code."

Legal consultants went to the Court as well as the Western Growth Management Hearings Board at the same time asking they make the modifications. The Judge heard the matter first and ruled that it was so clear cut he saw no reason to wait for the Growth Board, rendered his decision. The Growth Board provided an opportunity for the parties to provide comment by Friday of last week. Mr. Dearborn had not to date seen any comments, and expected the Growth Board to rule some time this week. Recommendation of counsel is that the Board hold its action for a week to give the Growth Board the opportunity to rule. If for some reason the Growth Board rules contrary, that will have to be resolved.

By unanimous motion, the Board continued the hearing until Monday, August 24, 1998 at 2:45 p.m.

HEARING HELD: ADOPTING NEW ORDINANCES CHAPTER 11.04, CONCURRENCY AND 11.05 ADEQUACY - ORDINANCE #C-90-98

[PLG-023-98] AND #C-108-98 [PLG-033-98]

A Public Hearing was held at 11:00 a.m., having been continued from August 10, 1998. The two subjects, Concurrency and Adequacy, now were contained in separate documents rather than one ordinance, as directed by the Board. On August 10, 1998, public testimony was taken and completed and public input closed with the purpose of today's hearing for the Board to continue it's deliberation and take action. Attendance List on file. The Concurrency and Adequacy documents were amended per direction of the Board 8/10/98.

Concurrency

Commissioner Shelton referred to Page 8 item F.1, -- test for concurrency is passed when the demand for category A and B public facilities which includes existing demand plus previously approved developments. The Board on August 10th talked about the fact that there are previously approved developments that are not built upon; his thought was that because the concurrency pass/fail test is updated or the ability to rule on those on an annual basis why

would the county not want to pick up approved development as it is built out and not as it is approved.

Mr. Kwarsick attempted to modify the ordinance to differentiate between a concurrency management system that would include for programming and planning purposes everything that has been approved, and have a separate concurrency provision for regulatory purposes which effective at the time an application is submitted. He changed that elsewhere in the ordinance and agreed perhaps he overlooked

the fact that it needed to be amended in the section referenced. Section 030 on page 3 talks about the test for concurrency being performed on development activities unless exempt, and goes on to say exempted activities and development activities that have been issued certificates of concurrency are considered part of the background capacity for planning and programming efforts and for Category A facilities the county is assuming the concurrency responsibilities for exempt development activity. On page 4, tracking exempt development activity and reserve capacity states that until such time as a building permit is applied for, for an exempt development activity or for a development activity, has been issued a certificate of concurrency for these activities are considered part of the background capacity for county long range planning and programming efforts; upon application for a building permit the responsible agency must take into account the exempted developments and the development that has been issued a certificate of concurrency.

The Chairman suggested correction on Page 8 #F.1 by crossing out the words: "plus previously approved development and exempt development activities". The term "existing demand" includes those once permits are applied for. Same type of thing on page 9, .060, cross out item #2.

Mr. Kwarsick thought it important that the County take the position of assuming responsibility for exempt development activities. With the idea being that the test for level of service at the regulatory level is based on existing demand on the system he believed the Chairman's suggestion would satisfy that. For failing the test of concurrency under .060 B., it would include the incremental demand of development activities for which a certificate of concurrency has been issued and exempt development activity at the time of building permits are submitted. Intent is that at the time building permits are submitted covers both those projects that have been issued a certificate of concurrency and exempt development activities.

To be clearer, Mr. Dearborn suggested re-writing #2, and Mr. Kwarsick agreed: " and 2 the incremental demand of building permit applications for both development activities that have been issued a certificate of concurrency and exempt development activities".

Chairman McDowell recommended a change in the definition section, 11.04.020.A, for Adequate Public Facilities, instead of " decreasing" use "existing" .

Mr. Kwarsick would not understand how that worked – adequate public facilities is a statutory requirement, if not a WAC definition, or both. As an example, Mr. Kwarsick used Maxwellton Road: that road might be A today, but the standard is C. Using "existing" he feared someone could confuse the operating level of service standard as it exists today versus the standard which exists for the next 20 years.

The next change recommended by the Chair was on Page 2, D., Category "A" - suggesting making this consistent with another change to mean "facilities owned or operated by Island County within county right of way and subject to the requirement for concurrency as follows" and then #3 address "intersections within county right-of-way".

Action: Change made by adding "within County right-of-way" after Island County in the first line of D.

On Page 4, Exempt Development Activity b), the Chair suggested deleting the words "or increase in the number of dwelling units". Mr. Kwarsick thought that probably could be deleted and is satisfied by a). c, d and e are still important to be maintained because permitted uses does not apply universally to all

zones.

Action: delete b).

Chairman McDowell noted on Page 5 – .050.A. the last sentence that tied in with the same concept on page 8 item e. While a fee for a concurrency test would seem to be an appropriate cost borne by the builder, he questioned monitoring noted in 8.e borne by the builder in that it would seem to benefit everyone not just the project applicant. His recommendation was to delete "and monitoring concurrency systems" from 8.e.

Mr. Kwarsick explained that the language on page 8 in e talked about the responsible agencies, i.e. Oak Harbor could charge applicable fees to make sure that concurrency was achieved for their systems and in so doing their fee could include the cost of monitoring the concurrency test as a component of the fee.

Action: 8.e – no change

The Chair on Page 6 recommended in #C.2 adding "with supporting funding documentation". Important to make clear that whatever plan is submitted have funding.

In this case, Mr. Kwarsick clarified this addressed category B facilities which are limited to roads, statutorily the cities and towns are required to develop their transportation plan and six year transportation improvement programs which have funding. [RCW 36.70.520/530].

Action: no change.

Commissioner Shelton asked for clarification on D.2. Mr. Kwarsick commented that just like the first paragraph of the SEPA section, this is a basic warning to people about the fact that passing a test does not necessarily mean that somewhere on down the line that during the application review process that fees will not be sought. Mr. Kwarsick confirmed intention was literally not at any time.

Action: delete "at any time".

D.5 - Type II - appeal to the Hearing Examiner. Mr. Dearborn explained that if someone receives a failing test for concurrency that determination can be appealed. If a positive result is received that could also be appealed before the application is filed – and through that appeal someone could effectively prevent an application from vesting.

Mr. Kwarsick's understanding was that intention on page 9 [11.04.060 Test for Concurrency – Fail] was the only the applicant has the right of appeal.

Action: D.5 Leave it as a Type II appeal, to state: "The test for concurrency is considered a Type II decision appealable only by the applicant pursuant to ICC 16.19."

Page 8. F.3a – The Chair recommended placing a period after the word " concurrency" ; delete the words "and shall document and maintain a record of the results" and replace with "Public Works shall document and maintain a record of the results". The last sentence also change the Planning and Community

Development Department to Public Works. The same also in b, c d & e – change Planning and Community Development to Public Works.

Action: agree with Chairman's recommendation above.

Page 9. 11.04.060

Action - Change Made: "and (2) the incremental demand of building permit applications for both development activities for which a concurrency has been issued and exempt development activities".

Page 8. F1.

Action – Change Made - to be same language as .060 on page 9.

BOARD ACTION: By unanimous motion, the Board approved Ordinance #C-90-98, PLG-023-98 in the matter of adopting a new ordinance, Chapter 11.04 ICC, governing concurrency procedures and requirements in Island County, as amended, effective 10/1/98, and that the Board continue the public hearing to September 28, 1998 at 2:45 p.m. to confirm changes and take final adoption action.

Adequacy - Ordinance #C-108-98 [PLG-033-98]

At the Board's direction, Mr. Kwarsick prepared ICC 11.05, Adequacy Ordinance and in doing so, attempted to make sure it was clear when looking at public facilities reviewed under the adequacy provisions the County's review was narrowed to those facilities identified in the State subdivision act, and an adequacy test would be performed in association with the processing of a subdivision under RCW 598.17 and also those public facilities necessary to support development activity in the form of building permits [as applicable, to be water, sewer and drainage facilities]. Based upon discussions last week, he modified the standard LOS for schools to only now include a site standard, and he also forwarded a collateral change for the Capital Facilities Plan to delete reference to any classroom size standard. He said that he had also attempted to recognize in the procedures for adequacy test that the submittal of standard service agreements or approval of service availability those documents currently used during development review would fulfill requirements of the ordinance.

The Chairman's basic question related to Page 1, under Purpose, 11.05.010, the first paragraph, last line "or the issuance of building permits" – does that mean every house must have a check for adequacy for transit, school facilities, parks, etc.?

Mr. Kwarsick explained that adequacy only came into play as outlined in 11.05.030; "A" comes into play for short subdivision and subdivisions with the listed 7 facilities. This is not retroactively applied. Item "B" is for building permits as applicable and the three specific public facilities s are listed: potable water supplies; sanitary wastes; and drainage ways [storm/surface water]. The adequacy test for building a house does not involve community parks, schools, etc. This is "as applicable" [see Page 3 .030.B.].

Commissioner Shelton was aware in his district of a multitude of places right now that have significant issues with storm water. He did not want the County to be placed in a position of denying building permits because the County had been unwilling to address storm water issues. The Chairman's comment was that one area's problem ought not to be placed on the backs of the entire County.

Mr. Kwarsick pointed out that conditions of building permits are specified in the drainage ordinance, not here, and he described how a building permit would be reviewed for adequacy. In one version before the Planning Commission the position had been taken that single family residential development – small parcel development – the only burden imposed was the application of erosion and sedimentation control best management practices. If someone comes in for a building permit, they are deemed adequate from the standpoint that they would comply with best management practices for erosion and sedimentation control to make sure there was no impact. Best management practices would be mandatory. The next level would be in an area that had a problem, and reviewed would be sedimentation and erosion control as well as flows and there are suggestions built in the ordinance in terms of what people can do to help mitigate drainage problems. It was Mr. Kwarsick's opinion that under adequacy for building, potable

water is a matter of code now, as well as sanitary waste. If the Board intends to apply a surface water drainage requirement to any kind of building permits, that should be disclosed here.

Mr. Dearborn reminded that Mr. Kwarsick had provided the Board with a memo for each RAID identifying the stormwater improvements that relate to the proposed RAID and densities in those proposed RAIDs, and at some point in the final review process, the Board will have to go through each one of those and decide whether to condition the new development in the RAID much as it is proposed to be conditioned for Holmes Harbor [see Appendix in the proposed zoning code with special conditions for Holmes Harbor].

Action: Pages 3 and 4 - 11.05..030

A.1 B.3 - "drainage ways" include in parenthesis "Surface and Stormwater Management"

A.3, 4 & 6, and B.1 2 & 3 – add the appropriate code title i.e. "as required in Title _____".

Page 5. C.2

Change: add at the ending of the RCW citation "with funding documentation".

Page 5. D.2

The Chairman suggested starting the sentence with "Public Works" and delete the language prior to that "Provide the results of this analysis to the". The sentence to read: Public Works shall verify that appropriate provisions have been made for the proposed development activity and for inclusion in the Capital Facilities Element update".

Mr. Kwarsick described page 5 and standards for schools. Currently under 58.17, both in the case of short subdivisions and subdivisions, before the approving authority can grant preliminary approval there has to be a finding that there are adequate provisions for schools. Under this ordinance, it is clear that upon receipt of that application, the Planning and Community and Development Department is responsible for the procedures for plats and short plats, would notify the school districts in writing that an application had been submitted and request from them comments regarding adequacy. Failing any response from them, the application would be deemed adequate. Until the districts have a long range comprehensive plan, the school check for adequacy does not occur.

nd

Change: 2 paragraph under C.2 to read: "Failure of the responsible agency to either provide the results of this analysis to the Public Works Department within the time limits"

Page 6 - C.2.b), the Chairman suggested the inclusion of the words: "with funding strategy identified and implemented".

Here, corrections are to be consistent with the Comp Plan approved. Mr. Kwarsick commented on the purpose of 2, a, b & c. This is considered adequate unless the regulatory agency notifies the County of these items -- it is a "fail safe" situation where a project cannot be approved which does not have adequacy.

Page 6.F.1. The Chairman question about crossing out "plus previously approved development activities", or the language read: "plus previously approved development activities committed by the public facility..." "or committed service connections" [committed in writing, or committed by agreement].

Mr. Kwarsick explained that it is only those served by the facilities and it is a little different from the transportation issue in that when someone comes in with proof of water availability for a project and the water district commits 20 service connections, those are gone. This speaks to the provider making a commitment and once that commitment made, of records and consumed. With the schools, it is not that kind of a commitment.

Change Agreed for F.1 on page 6: "committed by written agreement" – same change for item G on page 6.

Page 7. Under Item #3 the Chair suggested adding item c), to read" "If the responsible agency has not implemented its funding strategy" or item 2 say: "Arrange for the provision (correction of the deficiency on a pro-rated basis) of the capacity needed".

Mr. Kwarsick reminded this is an appeal process that is part of the process of land use review itself and is not a separate appeal process as with concurrency. It is a very narrow appeal – a technical error or unwarranted delay [by the agency]. The language in the Concurrency Ordinance is that "the agency did not follow process required by this chapter" as one of the causes for appeal and could be added here. Chair concurred.

Mr. Dearborn pointed out that with regard to item 2, the County cannot require an applicant to do more than their pro-rata fair share.

Changes Agreed:

Page 7, G.2 – add in the parenthesis "on a pro-rata basis" and cross out the words "and resubmit the development application"

G.3 - Eliminated

Last sentence becomes #3: The fact that an applicant has a basis for an appeal is not in itself justification to uphold the appeal. The burden of proof that the denial was in error remains with the applicant

Change Agreed: Re-write to show: 3. Surface & Stormwater Management Systems Approving Authority Standard, and delete remainder shown in a, b, c & d

BOARD ACTION: Ordinance #C-108-98 – Adequacy

By unanimous motion, the Board approved Ordinance #C-108-98 [PLG-033-98] in the matter of adopting a new ordinance, Chapter 11.05 ICC, governing adequacy procedures and requirements in Island County, as amended today to be effective 10/1/98, and that the Board continue the public hearing to September 28, 1998 at 2:45 p.m. to confirm changes made and to take final adoption action.

GMA COMMENTS FOR THE RECORD – DOROTHY BARTHOLOMEW

Dorothy Bartholomew, 5321 S. Wilkenson Road, Langley, planned to attend the meeting and provide comments during the public input time at 10:00 a.m. but was unable to arrive on time for that due to road construction events. The Chairman allowed Ms. Bartholomew time to make her comments at 1:30 p.m.

A letter as of Friday, August 14, 1998 at 4:00 p.m. has been placed in the GMA record from Horace and Dorothy Bartholomew concerning zoning of the north half of Government . Lot 2 on Wilkenson Road, 11-1/3 acres, now zoned residential @ 3.5 dwelling units per acre which would be 33 dwelling units. It is now their understanding the property under the new Plan will be zoned rural allowing only 1 dwelling unit per 5 acres which would take them from the allowable 33 down to 2 dwelling units, which they do not think fair and view it as spot zoning.

Mr. Dearborn advised Ms. Bartholomew that the Planning Commission would be meeting and would in fact consider her letter next week.

HEARING HELD: ORDINANCE #C-87-98 [PLG-022-98] ADOPTING AMENDMENTS TO CHAPTER 16.17, PLANNED RESIDENTIAL DEVELOPMENT

A Public Hearing was held, just after Ms. Bartholomew's comments at 1:30 p.m., continued from July 27, 1998, to consider Ordinance #C-87-98, adopting amendments to Chapter 16.17 ICC, Planned Residential Development. Attendance List on file. At the last hearing public input and testimony was taken and concluded, and the Board continued the hearing to this date and time so that staff be provided an opportunity to look at some of the suggestions John Graham, Citizens Growth Management Coalition, made to make sure nothing has been missed by not adopting his recommendations, and to give staff an opportunity to propose specific language changes where they feel those language changes are needed to give more clarity and by receiving their specific changes and the Board acting one way or another gain clear sense of legislative intent.

At the last hearing, the Board had a draft dated 7/27/98 Board Hearing Draft, with a number of technical corrections which Mr. Dearborn reviewed. John Graham has gone back and re-stated his recommendations, not substantively changed but re-worded for greater clarity. The EDC recommendation has not changed at this point. Staff last hearing had identified a number of concerns but had not been specific about them and since that time came back with specific proposed changes and recommendations dated 8/14/98.

Chairman McDowell question a correction - Page 7 of the 7/27/98 Board Hearing Draft #5, inasmuch as he believed it was a substantive change to delete the second "proposed", which to

him changed the meaning of the sentence. Mr. Dearborn had not thought of it that way, he assumed #5 would show only those accesses proposing, and suggested a re-write, to which the Board agreed: "Approximate location of Existing and any accesses proposed, to all Lots. Include, if available, Existing access permit numbers."

The chair commented that he had not been aware this added another layer of approval not previously required on PRDs. If the County was trying to encourage PRDs he did not see how this would accomplish that. Mr. Dearborn agreed that was the way the ordinance was now drafted. That path began in March; staff requested that site plan and PRD be separated from the subdivision process

Stacy Tucker, Planning Department, however, stated that the PRD study was specific in that staff wanted to reduce multiple layers of review and felt the use approval process, an additional layer of review, burdened the process and preferred one application review process, with preliminary final and if applicable, final.

Mr. Dearborn explained that currently the subdivision process and the PRD process are in one ordinance. The subdivision process and the site plan review ordinance in another, both integrated site plan review and PRD. The concern staff expressed in November when the drafting process began was a desire to separate subdivision review and subdivision standards from PRD review and PRD standards, and the same for site plan. No one wanted to put either a site plan or a PRD through more process today. A workshop on this subject was held before the PRD study was completed by staff [early December] and the decision was made to create a subdivision ordinance to cover all land division; a PRD ordinance for PRDs, and a site plan review ordinance for site plans. The drafting of that went forward and led to the necessity [if doing a PRD with lots] of filing concurrent applications. A subdivision and a PRD or a site plan and a subdivision would require filing of concurrent applications. The Planning Commission resolved this by requiring paying only one fee, either the subdivision or the PRD fee, or site plan or subdivision fee. The Board resolved this matter by a single fee. All the way from the time the decision was made to separate the processes, it had to have been known by all there were going to be two applications for a consolidated application with a subdivision and a PRD, or a site plan and a PRD. He did make the point that he would not understand duplication of submittals. Staff also asked that the applicant requirements be repeated in each ordinance just so that there was complete continuity in that ordinance, not so people would submit for example, two plat certificates, title reports, etc.

Mr. Dearborn recalled only about four things that are different for a PRD than Site Plan. He thought the confusion came from the desire to get all the application requirements in each ordinance. The concern for PRD holds equally for Site Plan. There is some lack of clarity in understanding in that the PRD approval is not conceptual approval, it is a final approval. The next step for that applicant, if not creating lots, would be building permits. The goal here was to try to make PRDs more useable.

The concern Ms. Tucker expressed was that instead of dealing with it in the ordinance and on the application side, is what about those proposals that would not require a final subdivision application, and the preliminary application includes PRD approval and subdivision approval.

Commissioner Shelton believed a form could be developed that would specifically relate to a PRD that has the subdivision of property included in it.

Mr. Dearborn advised that staff had a number of comments which the Board needed to consider; many very good and on point, many overlap Coalition's comments and need to be harmonized. The record is closed; public testimony concluded. After today's deliberations are completed, the Board will need to decide if there are changes by staff that clearly deserve the opportunity for the public to comment on or not, and if so, need to advertise for a reopened hearing.

Hand-out Provided by Mr. Dearborn: A tabulation of the lands the way the ordinance is written right now that could utilize the PRD process . The first page is a summary; the second page comes from the Comp Plan itself, the Land Use Element; and the third page from appendixes [the "red" document in the package of Comprehensive Plan documents for Phase B review]. The tabulation shows:

RURAL ZONE ACRES PARCELS

10-20 acres 14,810 934

20+ acres 16,696 424

Total 31,506 1,358

Total Rural Zone 80,032 13,728

% of Total 39% 10%

By staff analysis about 25% of the land in the 10-20 acre category is fully developed and not likely to be re-developed or the owner at this point has no intention of permitting a re-development of the parcel. All of the land 20 acres or larger in size in the rural zone is undeveloped and developable. There may be a few parcels that do not intend to see parcels re-developed. If they all did, it would constitute a little under 40% of the rural zone that could be developed by PRDs, representing 10% of the total parcels that exist in the county. There were roughly about 800 subdivisions and short subdivisions since 1984, about 25 were PRDs [information is in the appendix]. The actual use of the PRD process has been a small percentage of residential created since 1984 and the number of lots created since 1984 are less than 5% of the total lots the county has.

Staff Comments: Chapter 16.17 Planned Residential Development Thursday, August 13, 1998 (last saved 08/13/98 6:01 PM) 7/14/98 Planning Commission Recommendation

Ms. Tucker indicated that staff looked again at the PRD analysis and experience and support increasing the density bonus to at least 100%. Staff reviewed 12 PRDs, most included use of a system to increase density within the area and felt they saw developments that met criteria at that time, did have substantial buffers and transitions between the PRDs and the surrounding properties that buffered the communities and the increased densities to a substantial degree. Therefore, staff feel it is appropriate to continue to use 100% bonus density increase.

Open Space required percent to be set aside be reduced to 50% based on the need for more flexibility for developers on how they want to integrate open space into the development.

Added definitions for buffer, cluster design, community sites and facilities, open space land protective easements, screening.

The PRD study percentages varied between 25 and 61% open space dedication. Staff saw the need to look more at how the open space was being hat open space was being used and allow some flexibility rather than having such a high percent of required dedication, and felt that 75% reduced that flexibility of design. The PRD analysis identified several different uses how for how to use open space and grouped those into four: (1) protection of sensitive/natural features on the property; (2) buffer or screening to surrounding properties; (3) within the PRD to serve as buffers and transitions between different groups of housing for protection of privacy and noise considerations; and (4) recreation or community sites and facilities.

Staff hoped to integrate this into one application review process, perhaps PRD taking the place of a preliminary subdivision and then having a final subdivision requirement. In re-reading the section on that and provided staff comments, for this draft felt it was more in looking at a conceptual plan that would either occur at the time as subdivision review or before it, and therefore amended application requirements accordingly and eliminated the need for some different application requirements. In light of today's discussion earlier, Ms. Tucker agreed that staff comments would probably change if this were reviewed as one application.

As far as suggested changes in the criteria section [Pages 9 and 10] the draft presented at last meeting existing PRD criteria were deleted and replaced by another set of criteria. In current draft those have been deleted but incorporated the concepts into new suggested criteria which begin on page 11, listed in order of importance to the overall design of a PRD. She explained that 1a was to preserve the natural features and the landscape present on the site; identifying critical areas and buffers and ensuring same protected in open space areas, and 1b secondary conservation areas; areas important to the overall design and preserved as appropriate – wood lots, scenic views, historic, archeological, cultural, etc. Staff saw lacking in current PRD ordinance criteria but no sense of what was more important and some criteria conflicted and wanted to put a sense of order and priority into the criteria.

The Chairman asked if there was a way that staff would require more than 50% to be used for open space absent the critical area issue.

Ms. Tucker was not sure, and believed staff had not reviewed it that way, thinking more in trying to identify orders of importance and it was not an absolute that those areas had to be preserved in the open space area. It is worded to be flexible so that if 50% were in critical areas staff would not require any further placement of additional lands in open space areas. She explained that a cultural area could be, for example, as relating to agriculture productions – large open fields is a cultural amenity. As to item 1.e.i, community areas shall not include critical areas, this is for purposes of minimizing impacts to critical areas [but still part of the 50% open space].

Staff is aware that many of the prime view opportunities on many properties are on ridge lines and criteria 1d Ms. Tucker thought was written in a flexible way to not be an absolute. Along that line, the Chairman then suggested use of the word "encourage" instead of avoid. The same was true for 1c as noted by Mr. Dearborn to be an absolute requirement. Ms. Tucker explained staff concept was priority in how open space is identified and used. Concept was if there were scenic vistas, if available, possible and practical, preserve those in open space areas and there was no intent to be an absolute requirement.

Commissioner Shaughnessy did not understand what staff meant by 1.c. People who move to Island County want to live here for those mountain and water views. Commissioner Shelton pointed out the language "particularly as seen from public roadways, parks and waterways".

Ms. Tucker noted one of the other issues to look at was #2, relation of the proposed buildings to the site. One new item is that "units shall be clustered around open space with convenient access to that space". One of the questions staff looked at in the PRD study was the issue: "was the open space integral to the design of the project". Intent is for lots to have some kind of direct or indirect access to that open space so as not to see a cluster of units and the open space on the opposite side of the property with no access to it.

Regarding item 2c, the PRD study showed a range between 100 and 200 feet, and staff proposes here additional language: "except this may be reduced if natural features such as topography or critical l areas would make strict adherence to this condition not feasible".

Item 2e, "without adversely impacting natural features" Ms. Tucker interpreted to mean dealing with grading permits to get setbacks from steep bluffs, look at how access ways are constructed up those steep bluffs to make sure not adversely impacting the natural features. Intent in 2d and looking at 2e was to minimize impacts seen on hillsides to the natural features to the best of the developer's ability and also provide some buffering if available so that those houses that are on ridge lines the view into those are minimized and existing features are used. 2d would still require staff see, not the specific design of the building, but building foot prints.

In #3a, Ms. Tucker noted that the existing ordinance concept for PRDs to reflect or be harmonious with the

surrounding character, staff had difficulty identifying the surrounding character and what exactly did harmonious mean. The important concept is not to adversely impact the surrounding area. The type of building for example, rambler or two story, would not be dictated. Item 3b was picked up from the earlier version but provides clarification "shall be separated " which to staff means a combination of distance, separation from roads or adjacent property lines, and "or screening methods". Item 3c calls for that where mature vegetation exists it is to be retained [idea to buffer from adjacent roadways]. As to a suggestion by the Chair to change "shall" to "should", Ms. Tucker commented that should statements were difficult to implement and recommended against "should" statements.

With respect to item 3d, Ms. Tucker explained this referred to when a developer wants to install lighting – to ensure impacts such as off site glare are minimized. Number four relates to driveways, parking and circulation. The Planning Commission recommendation had removed the section entirely and staff hopes to see some review included for these type issues. The important issue is to ensure impacts to adjacent roadways, arterials, collectors, etc. was minimized, and that interior roads were designed to minimize conflicts between pedestrians and vehicles.

A few other amendments have been suggested by staff, in the area of community area and open space. Staff felt that the criteria and standards should be contained in one section and they tried to address that [pages 14 & 15]. The idea is that community areas essentially those recreation facilities, and in the future staff also recommends those be wells and sewage disposal facilities.

There is no definition at this point of a secondary conservation area.

Mr. Dearborn stated that one of the things he asked staff to do was to identify where staff changed standards are different or disagree with the Coalition in order for the Board to see whether or not changes made are substantive beyond what they already received comments on.

As far as substantive changes proposed today by staff, he pointed out that the only standard in the PRD Ordinance is the cluster separation provision – reducing the 200' to 100' to 200' with discretion is a major substantive change. There has been much testimony that should be larger than 200'. EDC asked for it to be 150' feet. The issue was discussed by the Planning Commission and ended up with 200' as a compromise between the arguments for larger and arguments for smaller. This has been described by Ms. Tucker in a way that is totally understandable, but as worded probably needs some modification to match the description [page 11].

Hearing Continued: due to time constraints for today's scheduled hearings the Board at 3:00 p.m., continued the hearing to 4:30 p.m.

Discussion on Site Plan Ordinance

Mr. Dearborn mentioned that the Board had already acted on the Site Plan Ordinance which eliminated criteria and replaced it with something much simpler. If staff have concerns about that he and the Commissioners need to know that right away. Stacy Tucker stated that staff developed proposed criteria for Site Plan Review that were reviewed, and believed the policy decisions on that code had already been made.

Discussion on Subdivision Ordinance 16.06 ICC.

On subdivision final action is scheduled for September 14, with staff comments coming to the Board at a staff session on September 9. Since the public is not always at the staff sessions, he has some concern that those people who provided comments and amendments will not have much of an opportunity to know what staff suggestions are before the Board takes final action on the 14th.

The Board asked that staff try to have written comments/suggestions available by the end of next week, with copies to be provided to: John Graham, Citizens Growth Management Coalition; John Hitt, EDC; Tom Roehl; Keith Dearborn; Board members.

HEARING HELD: Ordinance #C-93-98 [PLG-026-98] Ordinance Adopting New Ordinance to Chapter 3.40 ICC Governing Island County

Public Benefit Rating System [PBRs]

A Public Hearing scheduled for 3:00 p.m., was opened at 3:15 p.m. for the purpose of considering Ordinance #C-93-98 [PLG-026-98] adopting a new ordinance to Chapter 3.40 ICC governing Island County Public Benefit Rating System [PBRs], as recommended for approval by the Planning Commission. Attendance Sheet on file. Staff attending included: Larry Kwarsick, Public Works Director; Eugene DuVernoy, Consulting Land Use Attorney.

Letters of Record:

7/28/98 Letter from Steve Erickson, WEAN, Proposed Open Space PBRs

8/14/98 e-mail from Thomas J. Roehl - PBRs detailed comments

8/14/98 e-mail from Thomas J. Roehl - General Comments

8/11/98 Letter from Rob Harbour, Reserve Manager, Trust Board of Ebey's Landing

8/16/98 e-mail from Dean Enell

8/17/98 letter from Kim Drury, Langley

Mr. Kwarsick characterized this an important activity in terms of providing a non-regulatory approach to preserving open space in Island County . He went over some of the changes that occurred through the evolution of the document as recommended by the Planning Commission, and the primary recommendations of the Planning Commission.

Intent of the Planning Commission is not that open space classification become the basis of a land use zoning classification [purpose and intent, .020]. The Commission wanted to make sure there was no misunderstanding, and Mr. Kwarsick believed it was supported by the Assessor's Office, that those portions of a tax lot qualifying for a current use tax assessment would be assigned a separate Assessor tax lot number for tax purposes only and not be construed to be a division of land [.050 – basis for assessment]. Qualifying properties have to be 5 acres unless otherwise specified; an application fee of \$200 is recommended. Section .090 is to make sure there is a 3 year time frame from date of application. The Planning Commission was concerned about monitoring [.150] and proposed is a self-monitoring system [draft affidavit prepared and now under review]. Section .240 includes a provision that whichever comes first, three years after the adoption or when including an additional 1,000 acres, the program will be reviewed by the County to make sure it is functional. On Page 6, referring to Section .060.A., Properties less than five acres in size unless otherwise specified herein", Mr. Kwarsick explained that there may be an historic site of less than 5 acres, or the trace of a trail could be less than 5 acres and still be qualified.

Public Testimony

John Graham, Citizens Growth Management Coalition, repeated the Coalition's endorsement of the PBRs and thought it a very good, well thought out workable system. He understood that the effect on taxes would be minimal, but regardless of the effect on taxes, if anything, this is worth spending tax money on from his point of view for the common good. He acknowledges it is a "trade-off" – more density in rural areas; more protection for critical areas and resource lands.

Steve Erickson, WEAN, Langley, recalled it had been 1989 when he first suggested that the Planning Commission adopt an open space public benefit rating system. His comments on the proposal were contained in a letter dated 7/28/98. On the whole, he thought this a good proposal, but needed fine-tuning in the following areas:

- Document has ideology that it is a tax shift and costs the taxpayers, yet most of the research says that is not so.
- Include statements to recognize open space generally pays for itself.
- [.030.D.4] – additional points should be given for more contiguous ownerships and for the shear area of the land

- 250.e.1b Natural Heritage Plan is incorrect term - language should address "Natural Heritage Program" which evaluates and lists species as being endangered, threatened or sensitive. Another classification that Natural Heritage uses is high quality ecosystems; there are a number of those in the County and he suggested that be added so as to read: "Those areas containing vascular plant taxa identified by the Natural Heritage Program as being either endangered, threatened, or sensitive and areas identified as high quality ecosystems".
- 250.e.3.b.ii [page 14. Add "populations that are in danger of extirpation" instead of locally declining populations.
- .250.e.3.i Where a wetland has been restored voluntarily to a category A and the land owner commits to that designation, should be able to have that in open space under that designation if they enhanced it and are willing to maintain it that way.
- 260.c.3 Add wording to indicate the buffer is to be undisturbed native vegetation.
- 280.A.1.b Change language to refer to significant natural communities and ecosystems.

(virtually pristine is a very "fuzzy" concept).
- .280.B.3 Soil Conservation Service is now Natural Resource Conservation Service [NRCS]; the State Departments of Fisheries and Wildlife is now one agency. Suggest this statement say: "appropriate Federal, State, County or local agency" rather than trying to list specific agencies.
- .280.C.1 – change suggested so as to be less redundant to read: "...but no less than 25 feet that will contribute to the protection of water quality in a surface water body."
- .280.F.3.f. Add the caveat "Unless necessary to protect sensitive resources" for properties allowing public access. There are sites that will be extremely sensitive, open to the public to qualified researchers by appointment, not generally open. Needs to be clear that where there is a sensitive resource there may not be a sign.

Mr. DuVernoy pointed out that paragraphs A through D probably should be changed to A and C in f; Mr. Erickson agreed with that suggestion.

Gary Piazzon, Coupeville, representing Whidbey Audubon Society, encouraged that the Board maintain the inclusion of PBRS as a part of the Natural Lands Element of Island County's Comp Plan because:

- meets stated priorities of the public and values identified in Island County survey of 1/98;
- serves the functions consistent with goals of GMA
- provides achievement of vision of conserving the Island's rural character and natural beauty

voluntary program consistent with respect for property rights while providing public benefits

He recognized there would be some financial trade-off but thought the long term benefits were worth the potential trade-off. The potential loss in revenue from taxes probably will be mitigated by the long term and short term benefits of not forcing development.

Marianne Edain, WEAN, echoed comments of Steve Erickson, and was delighted to see this before the Board. She thought if a parcel of property contained something truly significant and worth saving that how large the parcel was might not be as significant as what people are trying to protect. She saw no reason for the 5 acre minimum and asked for that to be reconsidered. She was bothered somewhat by the \$200 application fee. People will save tax money but so will Island County, suggested \$125. Land placed in open space actually returns money to the public treasury – the balance is almost always in favor of the County saving money in the long term. She was interested in seeing beta testing of the point system – take some actual parcels and put them through the point system to see where they land.

Mr. Kwarsick explained intention was to do beta testing before September 28.

No others in the audience expressed a desire to speak and the public input/testimony portion closed.

Mr. Kwarsick recalled that when development of the program first began, the decision was made not to encourage arguments regarding savings, rather to just accept the fact there is a tax shift and leave it at that. He did not suggest the language be added suggested by Mr. Erickson about balance and not having to provide public services to these properties. He did think Mr. Erickson's suggestion on the issue of contiguous property had merit but preferred to defer looking at that until some other point in time when the property is re-evaluated. There is a bonus point system for restoration, and although he believed Mr. Erickson's comments had some merit, he suggested this too be deferred. The other suggestions Mr. Erickson made in his letter have merit and should be included in the current version. He agreed with the concept of the high quality ecosystem.

Mr. DuVernoy, Land Use and Environmental Services, addressed the question Tom Roehl had had posed - that if adopted would the program be voluntary. The RCW contains references voluntary nature, an application that a land owner can choose to submit to the county, not required. The only mandatory action this legislation requires is that the properties currently in the Open Space/Open Space designation be evaluated according to this criteria and tax deduction, if any, would be reflected by the points received under this criteria rather than the old tax reduction. Once that was done, notification would be made to the land owner who would have a certain number of days to choose to either stay in the system under the new deduction or to remove the property from the system. Should they remove themselves from the system, that individual will not be subject to any back taxes or penalty or interest. The County can only consider a property after the property owner makes an application.

Page 9, 3.40.170.C, is current law.

Tom Baenen, Island County Assessor, advised that the County had now about 970 acres in the Open Space/Open Space designation.

Mr. Kwarsick recalled some discussion before the Planning Commission about fees, and believed the Commission was sensitive to concept of unfunded mandates and recommended there be some recognition in the fee. He agreed with Ms. Edain there is lots of balance in permit fees, but he thought \$200 may be a balance in this case too.

Mr. Baenen commented about the fee too, noting that the Assessor's Office anticipated cost is \$325 – sothe recommended \$200 really was a middle ground between previous \$125 fee and actual cost of \$325.

BOARD CHANGES AGREED:

Page 6. .080. \$200 Fee

Page 6. 050 No change [not include undeveloped]

Page 13. E.1.b. Change "Natural Heritage Plan" to " Natural Heritage Program"

Page 14. E.3.i. Accept Mr. Kwarsick's recommendation and not adopt Mr. Erickson's suggested language at this point - there is a restoration bonus included, use that for three years.

3.b.ii Eligibility. No change.

Page 16. C.3 Add the words "undisturbed native vegetation" after "Those buffer areas".

Page 20. A.1.b. Leave as is

Page 20. B.3. Instead of approved by "the Soil Conservation Service, the State Departments of Fisheries or Wildlife, say "appropriate Federal, State, County or Local responsible agency"

Page 21. Top of Page. Wording in the second line to state "...that will contribute to the protection of water quality in a surface water body".

Page 23. f) Instead of (a) and (d) refer to (a) and (c).

BOARD ACTION

The Board, by unanimous motion, approved Ordinance #C-93-98, Exhibit A, Chapter 3.40, Island County Public Benefit Rating System with the changes agreed upon today, contingent upon final adoption by the Board on September 28, 1998, at 2:45 p.m., the date and time this hearing has been continued.

CONTINUED HEARING FROM EARLIER THIS AFTERNOON - ORDINANCE #C-87-98 [PLG-022-98] ADOPTING AMENDMENTS TO CHAPTER 16.17, PLANNED RESIDENTIAL DEVELOPMENT

The Chairman re-opened the Public Hearing, continued from earlier this afternoon and the Board continued to review staff recommendations provided under date of 8/13/98 with Debra Little and Stacy Tucker, as well as Keith Dearborn. The Commissioners also had questions for Mr. Graham to which he responded. Debra Little explained from perspective of staff when there are conflicts they are looking for some sense of priorities. Coalition is looking for a compromise that meets all of their needs, looking at common ground and minimizing or eliminating appealable issues.

Mr. Dearborn reviewed how PRD's had fared over the last 14 years in relationship to subdivisions [information from existing appendix, part of the tabulation on subdivisions], showing that the total acreage in subdivision and PRDs since 1984 is a little over 1200 acres, with PRDs accounting for a significant portion. Today, with 14 years' experience, in the rural zone since 1984 there has been far higher percentage of lots created of more than 4 units done by the PRD process rather than the subdivision process, probably attributable to the bonus density permitted.

In terms of density bonuses, if in fact the County encourages PRDs as an appropriate way to develop, Commissioner Shelton asked John Graham for some clarification of the Coalition's request for providing a 100% bonus only if in a transitional zone and 50% elsewhere.

Mr. Graham's answer was that density bonuses should be taken in context and looked at in total. It may be that 100% is the way to go, but must look at all the other density bonuses that are part of the continuing discussions: farm plan; affordable housing; rental of guest cottages in the rural area; now PRD density bonuses. If one comes to the conclusion in that context that more than 50% is required in order to provide an enticement for PRDs and that's what has come from talking to builders, he would not "jump up and down" and say it should not be 100%, but he suggests that the way to look at it is to look at it in context of all the other bonuses.

With regard recommendations about the 200' separation between clusters [EDC recommends 150'; and staff suggests 100], Mr. Dearborn pointed out that the Coalition's position was originally 700', reduced to 500'; the 200' came not from taking the upper range from the staff report.

For Commissioner Shelton, the distance was important, but the concept of properly locating two clusters on a particular piece of property in order to achieve the proper location – if those ended up 200' apart or 100' apart it would be more appropriate to locate those to properly utilize the property rather than to maintain some distance. He could see where there would be situations where that would easily be accomplished but in other cases where it might not be so easily accomplished. He asked for Mr. Graham's comments on this too.

While Mr. Graham did not disagree with Commissioner Shelton's philosophy, he noted that going down to 200' from the Coalition's point of view was a big concession. Two things he notes here: (1) the separation of clusters; and (2) percentage left in open space – Coalition agreed 75%; staff recommended 50%. The key to the Coalition is how well that open space is described. He agreed with staff that maybe 50% could work, but still thought it was like "having your cake and eating it too". Going down to 50% open space criteria cannot just be dealt with in a definition. The most important point in terms of recommendations in the Coalition's draft not reflected in staff draft is that the wording should be in each case that this deals with open space of which a part is community area, i.e. the table of

contents of Staff Draft, 16.17.100, should not be "community area and open space" but "open space including community areas". PRDs in Island County from the Coalition's point of view are not PRDs such as Harbour Point or in a suburban subdivision, but PRDs where there are clusters of houses separated by open space – open space that is primarily there as habitat, wildlife, critical areas, etc. Of that, some can be used for community areas, and the Coalition suggests no more than half of the open space be used for community areas such as ball fields and BBQ's, etc.; some will be used for septic fields and buffers. The primary use of the open space should be as undisturbed area [would not insist in all the verbiage in the Coalition's draft on page 4].

Another thing important to the Coalition is that open space be clearly defined and aggregated [see page 4 of the Coalition draft] suggesting a set of criteria, #A important to the Coalition. It is important to the Coalition that a developer not even be able to think that by counting up all the back yards would count as open space [something such as is indicated in B.(a) on page 4 of the Coalition's draft] - the community area and the open space should aggregate to 75% of which half, at a minimum, should be open space-open space.

Mr. Dearborn verified that the recommendation of the Planning Commission was also that the community area and the open space aggregate to 75% of which half, at a minimum, should be open space-open space.

Ms. Tucker explained current code requirements for undisturbed open space can be 20% or 50% depending on the size and zoning; it is the quality of the open space and how it is integrated into the design of the project. Typically, the average open space dedication has been around 50%, and 5% of that with community areas included within those. In the past, community areas typically included recreation areas. Most were not developed; two areas had recreation areas and included things such as trails and picnic tables. A few PRDs have community drainfields located within the open space area. For many developments, especially smaller PRDs, that open space dedication worked very well. All development staff reviewed exceeded the open space requirement, most by at least 10% or more.

Mr. Dearborn pointed out minimum Code requirements: in the rural zone unless over 100 acres in a PRD, open space is 30% of which 5% can be recreation; in the Residential Zone it is 20%.

From the Coalition's perspective, Mr. Graham stated that should the County go down to the bare minimum open space there has to be solid definition of open space and there needs to be a restriction as to how much of the open space can be community area so the remainder is open space-open space.

Mr. Dearborn was not sure there was a lot of difference between 75% requirement of which 50% is undisturbed, or 37-1/2% of the site, and a 50% requirement with no stated amount that can be community area – both come out close to being the same in terms of actual affect. Critical areas are protected by the Critical Areas Ordinance; there is not going to be an additional open space requirement beyond the Critical Areas Ordinance.

Ms. Tucker confirmed intent was not an "additive" but inclusive of those areas, with emphasis to establish priorities for designation of open space.

Mr. Graham, at the Chairman's request, explained the Coalition's recommendation in regard to #3 on page 2 was written with flexibility given in making the judgment; not concerned about the normal differences in aesthetic opinion, rather the individual who thinks something like eight butler buildings on five acres painted garish red is fine; not everyone has common sense.

Commissioner Shelton suggested language such as: ...covenants and restrictions shall be adopted so as not to adversely impact through location and size of proposed structures"

Mr. Dearborn mentioned that existing code requires provision of the location, size, bulk, height and number of stories and gross floor area for all structures and other improvements existing and proposed. The review criteria then included what is referred to as #2 and #3 in the Staff Proposal, and #2 and #3 in

the Coalition's proposal in a one paragraph narrative staff found hard to apply and interpret. Deleted from the application requirements is the requirement that that information be provided so to re-instate the criteria need to re-instate the information

Debra Little, using the example of Brentwood and Cavelareo, pointed out that in review, staff looked not at the houses, but the footprints in terms of square footage, distance from proposed property lines, location on the lot – more bulk and location. Most PRDs such as Brentwood, have very strict covenants. Staff reviews the covenants to make sure nothing contrasts with county code and are not less restrictive than county code. After covenants are in place, they are private and are not enforced by the County.

Mr. Graham thought it would be a good idea to put what Ms. Little said into the code. As far as "prominent physical features" Mr. Graham stated the Coalition's concern is ridge lines – for example, downtown in Langley you can look back up toward the cemetery and see a wonderful stand of trees across the horizon looking south from downtown Langley. Even 15 houses along that ridge line would totally change the feel of that entire town. Forested ridge lines are an important part of rural character and need to be very careful about doing away with them.

Mr. Dearborn agreed he could try to word it in such a way that provides a little more flexibility and yet provides an identification.

The Chairman observed that the Planning Commission put a lot of work and thought into this and came up with a reasonable well-thought out proposal. And Mr. Dearborn commented that if the Planning Commission was to serve its purpose that had to be the place where this information is presented. Unfortunately, Mr. Graham's comments came in at the very end of the Planning Commission discussion, and he thought if the Commission had had the Coalition comments and comments of staff they would have spent more time on this subject. The Planning Commission did not reject all of this, did have a discussion on a number of these issues such as the ridge line, and on the forested ridge lines the Planning did not want an absolute that prohibited that. He pointed out that part of the problem with a PRD is that it is hard to do that in absolute terms in criteria in an ordinance; each PRD is different and must deal with different physical features of the property and he would be concerned about absolutes that do not leave a fair amount of discretion in judgment on a case by case basis.

Most of the participants at the hearing seemed to agree there had not been a problem with PRD's, and Mr. Graham explained the concern now, however, was because PRD's were now to be a planning tool and considering increasing density bonus to 100%. He's looking for "preventative medicine".

Mr. Dearborn stated that the record reflects that the PRD study done by staff indicates staff feels more specific and detailed criteria are needed and identified a number of areas they felt that was necessary. The Planning Commission had that study available. Mr. Dearborn went through the staff report with Rich Unterman in detail and both felt the Planning Commission proposal [page 10 of the ordinance] was sufficient. The Board is hearing from staff that they do not agree with that, and the Coalition would like more specific criteria and retention of some of the criteria deleted. Mr. Dearborn and Mr. Unterman concluded they could approve PRDs with the criteria 1 and 2 of the Planning Commission draft and feel comfortable in doing a good job of protecting rural character. The Planning Commission did not address PRD maximum size because of trying to encourage the PRD process; but the fact is with a 50% bonus it did not seem to be an issue.

Commissioner Shaughnessy noted though that perhaps the issue of maximum size was in fact something the County should consider.

Commissioner Shelton liked the Planning Commission recommended language on Page 10, Item B:

"The above criteria shall be in addition to any standards or requirements established by applicable state and county laws or ordinances. They are not intended to be absolute in nature or to discourage creativity or innovation. The approving authority shall have the authority to modify standards contained within the criteria as may be found necessary; however, said modifications shall be made only to ensure that the proposal is adapted to any unique or special site feature and is compatible with surrounding land uses." The criteria then talks about 50% of the required open space to be undisturbed area of native growth or dedicated to agricultural purposes; clusters separated by 200'; locate development to minimize disturbance of natural features – all of those things seem to parallel what Mr. Graham has brought up.

Mr. Dearborn explained the only issue the Planning Commission had of concern which came from staff was what mature timber meant, and struck it because it was not clear enough to be administered.

As far as traffic and circulation within a PRD, Debra Little saw to be more design factors. The Public Works Department does not review internal circulation, only how it affects the outside road unless Planning staff, by memo, ask them to specifically review interior circulation. we would also like to discourage through traffic where the PRD does not become part of an overall system . Staff wants to make sure that houses are not set up such that people are not backing out directly onto adjacent arterials, and she agreed this does not often occur, however.

Commissioner Shaughnessy stated that if the county is going to increase density bonuses he recommended a maximum size PRD be set.

Mr. Dearborn stated that would be something to address in the Zoning Code and did not have to be addressed here. The way the Planning Commission recommendation comes to the Board, the open space requirement is what is established in the Zoning Code.

Should the Board desire to go forward with a bonus density system, he commented about being careful to balance the bonus with the standards. Absent coming back even though the Planning Commission standards are simple and clear cut, with the record now having both the Coalition and Staff calling for more detailed standards, that issue has to be faced directly and come back with more detailed standards even if the bonus is not changed.

Using the Planning Commission recommendation as the basis, Mr. Dearborn agreed to take the Coalition's recommendations and Staff's recommendations and blend them into a revised proposal, come back next week with that revised proposal.

BOARD ACTION:

The Board agreed there be one application - the same application for PRD and Subdivision and also make it a site plan application [i.e. site plan for the purpose of Subdivision and PRD for the purpose of Subdivision, one application]

By unanimous motion, the Board continued the public hearing until 5:00 p.m. on August 24, 1998.

Mr. Dearborn agreed he would try to provide the appropriate recommendations based on staff and Coalition's comments to the Board for the next hearing by the end of the day on Friday, and to staff and Mr. Graham.

There being no further business to come before the Board at this time, the Chairman adjourned the meeting at 6:06 P.M., to meet next on August 24, 1998 at 9:30 a.m. in special Session, and at 11:00 a.m. in Regular Session

**BOARD OF COUNTY
COMMISSIONERS**

ISLAND COUNTY, WASHINGTON

Wm. L. McDowell, Chairman

Tom Shaughnessy, Member

Mike Shelton, Member

Attest:

Margaret Rosenkranz, Clerk of the Board