

ISLAND COUNTY COMMISSIONERS - MINUTES OF MEETING
REGULAR SESSION - APRIL 10, 2000

The Board of Island County Commissioners (including Diking Improvement District #4) met in Regular Session on April 10, 2000, at 9:30 a.m., Island County Courthouse Annex, Hearing Room, Coupeville, Wa., with Wm. L. McDowell, Chairman, William F. Thorn, Member and Mike Shelton, Member, present.

VOUCHERS AND PAYMENT OF BILLS

The following vouchers/warrants were approved for payment by unanimous motion of the Board: **Voucher (War.) # 72056**
 - 72298 \$490,834.89 .

Veterans Assistance Fund: [emergency financial assistance to certain eligible veterans; the names and specific circumstances are maintained confidential] based on the recommendation of the Veterans Assistance Review Committee the Board approved Claim #V2K-5 in the amount of \$1,951.23.

APPOINTMENT NAMED

By unanimous motion, the Board appointed Ms. Heather Houlihan, Freeland, to serve as a Commissioner for the Holmes Harbor Sewer District refilling Position #3 with existing term to December 31, 2001.

SPRINT PAY PHONE SERVICE AGREEMENT – CAMANO MULTI-PURPOSE CENTER

On presentation by Lee McFarland, Assistant Director, GSA, the Board by unanimous motion approved Sprint Pay Phone Service Agreement covering the installation of a pay telephone outside the Camano Multipurpose Center.

EMPLOYEE SERVICE AWARDS

DEPARTMENT	EMPLOYEE	# YEARS
PUBLIC WORKS/ROAD	Henry Hilberdink	20
HEALTH	Kathleen Parvin	10
HEALTH	Dana Kelly	5
SHERIFF	Jay Wallace	5

EMPLOYEE OF THE MONTH – MARCH, 2000

Congratulations to **Fred Noyes**, Assessor's Office, selected as the **Employee of the Month for March**. His dedication and caring efforts to the citizens of Island County have been noteworthy, well beyond normally-recognized responsibilities of his position.

BID AWARD TITLE REPORTS

Based on recommendation of Maxine Sauter, Treasurer, in a memorandum provided this date, the Board awarded bid by unanimous motion to the low bidder, Land Title Company for the purchase of title reports required for tax foreclosures.

HEARING HELD: ORDINANCE #C-23-00 ADOPTION OF AMENDMENTS - PROCUREMENT OF ELECTRONIC DATA PROCESSING, TELECOMMUNICATION EQUIPMENT, SOFTWARE AND SERVICES

A Public Hearing was held for the purpose of considering Ordinance #C-23-00 Adoption of Amendments to Provide for Procurement of Electronic Data Processing and Telecommunication Equipment, Software and Services.

Cathy Caryl, Director, Central Services, presented the ordinance which if adopted would amend the County's procurement process to allow for competitive negotiation rather than competitive bidding for purchase of electronic data processing and telecommunication equipment and software, as well as contracting for services relating to electronic data processing. Ms. Caryl worked with the Deputy Prosecuting Attorney's Office to revise the information and changes as provided under memorandum dated March 7, 2000 from Dave Jamieson.

At the time the Chairman called for comments from the public, no one spoke either for or against the proposal. Suzanne Sinclair, Island County Auditor, did comment that she believed this would result in better acquisition practices for Island County.

As far as adequately responding to the finding Island County received from the State Auditor's Office, David L. Jamieson, Jr., Chief Civil Deputy Prosecuting Attorney, mentioned that he used the statute the State Auditor referred to in making the proposed changes to the competitive solicitation process. The County would be rolling the competitive negotiation into its competitive solicitation process. This will require potentially some changes in the practice used for acquiring other services through competitive solicitation, i.e.: a procedure for publishing a notice soliciting requests at least 13 days prior to the deadline date for receiving; and the request for proposal must identify the factors that are to be considered in the weighing process of what the County is going to procure and relative importance. Therefore, this would affect any county department that goes out for competitive solicitation for services. The architects and engineers procedure is prescribed by State law in chapter 39.80 and this differs from that. Any other services that are not under architects or engineers or some other special procedure for acquiring services would be required to go through the County's competitive solicitation process.

By unanimous motion, the Board adopted Ordinance #C-23-00 in the matter of adoption of amendments to provide for procurement of electronic data processing and telecommunication equipment, software and services.

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF ISLAND COUNTY, WASHINGTON**

IN THE MATTER OF ADOPTION)
 OF AMENDMENTS TO PROVIDE)
 FOR PROCUREMENT OF)
 ELECTRONIC DATA PROCESSING) ORDINANCE NO. C-23-00
 AND TELECOMMUNICATION)
 EQUIPMENT, SOFTWARE AND)
SERVICES)

WHEREAS, state law adopted as RCW 39.04.270 provides for an alternative "competitive negotiation" process for County procurement of electronic data processing equipment, software and services and telecommunication equipment, software and services rather than utilizing standard competitive bidding; and

WHEREAS, amendments to Island County Code are necessary to incorporate the state law provisions relating to procurement of such equipment, software and services; NOW, THEREFORE,

IT IS HEREBY ORDAINED that the amendments to Chapter 2.29 ICC and Chapter 2.30A ICC attached hereto as Exhibit "A" are hereby adopted. Material lined through is deleted and material underlined is added.

Reviewed this 20th day of March, 2000, and set for public hearing on the 10th day of April, 2000 at 9:50 a.m. in the Commissioners' Hearing Room.

**BOARD OF COUNTY COMMISSIONERS
ISLAND COUNTY, WASHINGTON**

Wm. L. McDowell, Chairman
 Mike Shelton, Member
 William F. Thorn, Member

ATTEST:
 Margaret Rosenkranz
 Clerk of the Board
 BICC 00-169

Ordinance C-23-00 is adopted this 10th day of April, 2000 following public hearing.

BOARD OF COUNTY COMMISSIONERS
 ISLAND COUNTY, WASHINGTON
 Wm. L. McDowell, Chairman

Mike Shelton, Member
William F. Thorn, Member

ATTEST:

Margaret Rosenkranz
Clerk of the Board

APPROVED AS TO FORM:

David L. Jamieson, Jr.
Deputy Prosecuting Attorney and
Island County Code Reviser

[Exhibit "A" on file with the Clerk of the Board]

SUPPLEMENTAL AGREEMENT #1 TO AGREEMENT NO. RM-CENT-00-0021 TO REFLECT THE CORRECT EFFECTIVE DATE OF CONTRACT: FEBRUARY 1, 2000

As presented and reviewed by Ms. Caryl, the Board by unanimous motion approved Supplemental Agreement No. 1 to Agreement #RM-CENT-00-0021 to reflect the correct effective date of contract to be February 1, 2000 rather than March 20, 2000, the Chairman authorized to sign on receipt of original signed by contractor.

CLAIM FOR DAMAGES #R00-004CD, PUGET SOUND ENERGY

Betty Kemp, Director, GSA/Risk Management, presented Claim for Damages submitted by Puget Sound Energy, Claim #R00-004CD, in the amount of \$1,059.40 for an alleged incident resulting in damages to PSE utility pole. The Company alleges the incident occurred on October 5, 1999 when an Island County Truck operator raised the truck bed to spread crushed rock. Investigation determined that Public Works Department operating procedures address specific procedures to control claims of this nature; truck bed heights are measured periodically to ensure the height does not reach 18'. The equipment was checked and measured at 17' 9", and the PSE wires were well below the required 18' minimum height. Recommendation of Risk Management and Public Works is that the claim be denied.

By unanimous motion, the Board denied the Claim based on recommendation of County staff.

SUPPLEMENTAL AGREEMENT #2 – AGREEMENT #PW-992025; DATUM PACIFIC; INC.

As presented and recommended for approval by Lew Legat, Island County Engineer, the Board by unanimous motion, approved Supplemental Agreement No 2_ to Agreement #PW-992025 with Datum Pacific; Inc. for Drainage Study, Holmes Harbor Sewer District, WO #281

PURCHASE ORDER 01190/LANDSCAPING & IRRIGATION

The Board, on unanimous motion, approved and signed Purchase Order #01190 for Landscaping & Irrigation Installation for South Whidbey Family Resource Center, under work order #350, purchased from Windwood Landscape, in the amount of \$9,943.56.

SPECIAL INSPECTION SERVICES CONTRACT – AGREEMENT #PW-002013

By unanimous motion, the Board approved and signed Special Inspection Services Contract Agreement # PW-002013 with Geo-Test Services related to the new Law & Justice Facility, under work order #301, in the amount of \$12,200.00.

STORMWATER MITIGATION AGREEMENT

Stormwater Mitigation Agreement was approved by unanimous motion of the Board, with B & H Construction of Washington, for Lot 17, Block 3, Holmes Harbor Golf & Yacht Club, Division 7.

ADOPT-A-ROAD LITTER CONTROL PROGRAM AGREEMENTS APPROVED

By unanimous motion, the Board approved the following Adopt-A-Road Litter Control Agreements and renewal:

- Historic Bayview Corner; Bayview Road from Highway 525 to Marshview Avenue
- Central Whidbey Lions Club; renewal of agreement, Engle Road from town limits of Town of Coupeville to Fort Casey Road
- Windermere, Dan Garrison, Inc.; renewal of agreement, East Camano Drive from Lehman Road to Monticello
- Whidbey Island Flower & Seed; renewal of agreement, Bakken Road-Day Road from Highway 525 to Christianson Road
- Floralia Gardens; renewal of agreement, Wonn Road and North Bluff Road from Highway 525 (including all of Wonn Road) to North Bluff to shoreline
- South Whidbey Centaurs (4-H Group); renewal of agreement, Langley Road from Island County Fair Grounds to one-half of Langley Road near Highway 525.

RESOLUTION #C-37-00 PROCLAIMING APRIL 17, 2000 VOLUNTEER GUARDIAN AD LITEM DAY IN ISLAND COUNTY, WASHINGTON

Jane Koetje, Public Defense Administrator, Guardian-ad Litem Program, appeared in support of the Board proclaiming April 17, 2000 Volunteer Guardian Ad Litem Day in Island County, Washington. Along with Mrs. Koetje, approximately 15 GALs were present, representing about two-thirds of the volunteers. She brought out a number of important points about the volunteer GALs:

- *over 250,000 children in Washington State woke up this morning in foster care beds*
- *the majority of these children are in foster care because of dependency actions*
- *GALs are the ears and the eyes of a dependency action for the court; they investigate, advocate, facilitate and monitor a dependency action*
- *Goal is to ensure that every child is in a permanent, safe home where they can go to sleep each night not wondering where they will spend the next night*
- *Every child has a right to live in a safe, loving and nurturing environment; a right they are born with and should not be something earned, but something that is normal.*
- *From 1988 GALs have represented over 250 Island County abused and neglected children*

Commissioners McDowell, Thorn and Shelton personally thanked the volunteer Guardian ad-Litem and acknowledged the services performed for the children who through no fault of their own find themselves in very difficult situations.

By unanimous motion, the Board adopted Resolution #C-37-00 Program, proclaiming April 17, 2000 Volunteer Guardian Ad Litem Day in Island County, Washington.

**BEFORE THE BOARD OF
ISLAND COUNTY COMMISSIONERS**

IN THE MATTER OF PROCLAIMING	}	
APRIL 17, 2000 VOLUNTEER GUARDIAN	}	
AD LITEM DAY IN ISLAND COUNTY,	}	RESOLUTION #C-37-00
WASHINGTON	}	

WHEREAS, the purpose of Volunteer Guardian Ad Litem Day is to recognize the dedicated men and women in our county who serve as Volunteer Guardian Ad Litem.

WHEREAS, the Volunteer Guardian Ad Litem Program has established a distinguished record of public service through their work to enhance the quality of life for children; and

WHEREAS, the court appoints Volunteer Guardian Ad Litem advocates to serve as officers of the court, helping to improve the quality of information presented to the court by acting as the courts eyes and ears in the child's life; and

WHEREAS, April, 2000, is named **Child Abuse Prevention Month**, an observance that reflects the purpose of Guardian Ad Litem Programs, to protect and defend children from harm and ensure that abused and neglected children are provided with the court-ordered services they need;

NOW, THEREFORE, we, the Board of Island County Commissioners, do hereby proclaim April 17, 2000, as

Volunteer Guardian Ad Litem Day

in Island County, and we urge all citizens to join us in this special observance.

SIGNED this 10th day of April, 2000.

**BOARD OF COUNTY COMMISSIONERS
ISLAND COUNTY, WASHINGTON**

Wm. L. McDowell, Chairman

William F. Thorn, Member

Mike Shelton, Member

ATTEST: Margaret Rosenkranz,
Clerk of the Board BICC 00-231

EXECUTIVE SESSION

The Board met in Executive Session 11:15 a.m. [Commissioners Office] as allowed under RCW 42.30.110 (1) (i) to discuss pending/potential litigation with legal counsel. The session lasted approximately one hour and no announcement was made on conclusion in open public session.

GMA PUBLIC HEARINGS

- **Ordinance #C-135-99, PLG-042-99, continued from 11/8/99, 11/22/99, 11/23/99, 1/10/00, 2/14/00, 3/13/00 Amending the Comp Plan and Developmental Regulations to Comply with the Order of the Western Washington Growth Management Hearings Board Relating to Rural Densities in the Rural Area**
- **Ordinance #C-03-00, PLG-002-00, continued from 2/14/00, 3/13/00 Amending Chapter 17.02 ICC Relating to Certain Provisions of the County's Critical Area Regulations**
- **Ordinance #C-30-00, PLG-010-00, Amending Chapter 17.03 ICC, to Comply with the Order of the Western Washington Growth Management Hearings board Relating to Residential Uses in the Rural Zone**

Attendance: Public: 5 [Attendance Sheet GMA doc. #5637]
Staff: Keith Dearborn; Dave Jamieson; Jeff Tate; Phil Bakke

Hand-outs

- Ordinance #C-135-99 introduced 10/18/99 [GMA doc. #4907] scheduled for hearing on 11/8/99 and continued to: 11/22/99; 11/23/99; 1/10/00; 2/14/00; 3/13/00 and 4/10/00 in order to consider amendments and further refinements
- Exhibit C Findings and Legislative Intent – Rural Densities 4/10/00 Revised, for Ordinance C-135-99 GMA doc. #5629
- “Review Rural Densities and Land Division; Planning Department April 10, 2000” [GMA doc. #5630]
- Ordinance #C-03-00 introduced on 1/10/00 [GMA doc. #5267] and set for hearing 2/14/00, continued to 3/14/00 and 4/10/00
- Proposed Amendment No. 1 to C-03-00 GMA doc. #5624

Reduces size threshold for wetlands to provide greater protection to critical areas in the Rural Zone

- Proposed Amendment No. 2 to C-03-00 GMA doc. #5625
Type 5 Stream Buffers and Category B Wetland buffer sizes should be linked to permitted density and not parcel size
- Proposed Amendment No. 3 to C-03-00 GMA doc. #5626
Change in wetland threshold sizes effective on determination that no change to Rural Zone 5-acre minimum lot size is needed
- Proposed Amendment No. 4 to C-03-00 GMA doc. #5627
Reduces the size threshold for wetlands to provide greater protection to critical areas in the Rural Zone but excludes existing and on-going agriculture in the Rural Zone
- Exhibit C – Revised 4/10/00 to C-03-00 GMA doc. #5628

Amendments #1 through #3 were prepared based upon testimony received on January 10th, and sent out via e-mail, mail and fax to all participants at the January 10th hearing. Amendment #4 was also prepared in response to public testimony but was not sent out to those who testified on January 10th until today. Exhibit C Findings are revised to address the proposed amendments. Amendment #4 would substitute for Amendment #1 [both #1 and #4 will not be adopted].

- Ordinance #C-30-00 introduced 3/22/00 [GMA doc. # 5616] and set for hearing 4/10/00

Mr. Dearborn confirmed that everything today was in response to the June 2nd Order of the Growth Board; these three ordinances are the actions relating to that decision. Once adopted, the ordinances will be forwarded to the Growth Board requesting confirmation that the County complies with GMA. As required by the Growth Board, the County adopted and has at this time interim regulations for the rural zone that changed the minimum lot size from 5 acres to 10 acres, and extended the interim regulations twice. The ordinances if adopted would replace the ten acre interim ordinance and restore five acre zoning in the rural zone. If not found valid, the ten acre zone will be retained. Two compliance actions are pending before the Growth Board [this will be the third]. The Growth Board advised they would consider at one time all final compliance determinations and are waiting for this action to be completed before they schedule final compliance proceedings. Two items have to be addressed to respond to decisions after June 2nd: one relates to Freeland and Clinton; the other relates to Shoreline Buffer Reductions.

Mr. Dearborn advised that for the second “Be It Hereby Ordained” paragraph in Ordinance #C-135-99 he would recommend wording identical to what is now the second “Be It Further Ordained” in Ordinance #C-30-00.

Jeff Tate, Planning Manager, completed his research with regard to subdivision in the rural area and how it relates to the rural area, and put together a document for hand-out today, and took the time to review each page by overhead projector of his report [GMA doc. #5630]. In summary:

Protecting Rural Character – GMA Requirements

Protecting Rural Character-Island County Comprehensive Plan

Protection of Rural Character-goal since 1977 Phase II Plan

1984 Is. Co. down-zoned entire Rural Residential Zone from 1 du/2.5 acres to 1

acres

du/5

Is. Co. adopted and began implementation the 1984 Is. Co. Zoning Ordinance

Rural Forest Land Use Designation

14,000 acres or 10.5% of the County

Rural Agriculture Land Use Designation

6,000 acres or 4.5% of the County

Rural Land Use Designation

73,500 acres or 55% of the County zoned Rural outside of JPA’s & Mineral Lands

45,110 acres are less than 10 acres and not subdividable
28,390 acres or 1,811 parcels located outside JPA's & Mineral Lands are 9
acres or larger and could be subdivided into smaller lots
[those parcels are shown on the Map posted on the wall, GMA doc. #5298]
showing in light gold color the dispersed pattern of those lots 9 acres to 19.99
acres, and 20 acres and larger shown in darker brown]

[correction: Protecting Rural Character – Rural Land Use Designation, the last sentence of
this graphic should read: “Hearings Board has declared that non-residential rural uses are GMA compliant”]

Rural Areas of More Intensive Development

9.000 acres or 8% of the County

How Figures and Location of Lands Were Determined

Rural Zone Acreage chart

[table break-down corresponds with the map posted on the wall – only
1 parcel of about 80 acres]

Rural Land Issues

Do 5 acre lots pose a threat to critical areas
Do 5 acre lots pose a threat to resource lands
Do 5 acre lots pose a threat to UGAs
Is there a variety of densities within Is. Co.

Chart: Zone; Base Density; Acres; % of Rural Area

Do 5 acre lots pose a threat to rural character

[break down of each of the zones; what base density is; how
many acres n that zone; and what percent of rural area it
refers to – Map record #5298]

Lot Size Distribution – Rural Lands – Ultimate Parcelization Chart

Rural Character

PRDs

Non-Residential development

Example #1 Henderson Dry Storage, South Whidbey

Example #2 Church just south of Coupeville

Example #3 Mini storage by OLF Coupeville

Rural 5 Subdivisions

5 acre subdivision

Critical Areas Regulations

Example of a Typical Subdivision-protection of critical areas-post 1984

[a copy off the face of a plat – restrictions]

Example of a Typical Subdivision-protection of critical areas-post 1984

[protection of critical areas]

Example of a Typical Subdivision-protection of critical areas-pre 1984

[Highland Meadows plat created in 1969]

Drainage Regulations

Rural 5 Acre Subdivisions – Examples

Winterhawk Lane [including aerial photograph; and plat map]

Wildlife Haven/Wildwood [aerial photograph included and plat map]

Protecting Rural Character-Do 5 acre lots pose a threat to rural character?

[copy of three photographs as examples showing the impact has pretty
much been felt]

Rural 10 vs. Rural 5 – Ultimate Parcelization [chart]

Actions Taken – Providing Additional Protection to Rural Character

Signs and Lighting Ordinance

Cell Tower Ordinance

Amendments to standards and review criteria for Non-residential
uses in the Rural Zone

Amendments to standards for PRDs

Amendments to PRD provisions and Non-residential uses have

both been found to be in compliance with GMA
 AG BMPs including seasonal restrictions on live-stocking rates
 and fencing requirements for existing AG operations
 Standards for protection of Heron & Osprey
 Standards for protection of DNR designated Natural Heritage Lands
 Standards for designation of species of local importance
 Restrictions on use of functionally isolated buffers and requirement of a
 BSA
 All estuarine wetlands are designated as a Category A wetland
 providing more stringent protective standards
 County authorization [*note: corrected to notification*] required for site
 investigate work

Recommended Actions

1. Threat: location of structures close to highways, arterials and collectors creates the appearance of suburban sprawl
 Solution: increased setbacks of residential structures from the road
2. Threat: narrow lots cause increased clearing in order to accommodate more accesses.
 Solution: create minimum lot width along highways and arterials.
3. Threat: uncontrolled development of a site can lead to increased bulk and structures on a single parcel
 Solution: Limit the building site coverage allowed.

At this point in the presentation, Mr. Tate drew attention to the maps posted on the wall, and pointed out the following:

Map [GMA Doc. #5299] is the same as #5298 in that it shows the same rural parcels 9 acres to 19.99 acres and those above 20, but shows them in relation to Rural Forest, Rural AG and Commercial AG lands. When looking at this staff tried to figure out if there was a reason to down zone parcels in the rural zone to protect the resource lands, but on review found that most of the lands around resource lands are less than 5 acres already and there does not seem to be much of a pattern to show big buffers or expanses of land around resource lands that could be down zoned to provide protection to those resource lands.

Map [GMA doc. # 4860] showing parcels 9 acres to 19.99 acres and 20+ acres adjacent to resource lands of long term commercial significance, mineral lands and commercial AG lands, which Mr. Tate noted again showed there are not many [shown in red color].

Staff looked at four streams and several major wetland systems to see where the parcels are larger than 9 acres in relation to those critical areas. The acreage shown in green color is already 10 acre or 20 acre zone [RF and RAG]; the gold color shows the parcels zoned rural that are along stream corridors identified in the shaded area [stream itself and the buffer]. On review to see if those parcels [gold color] were down zoned to 10 acres would provide additional protection to the critical area, as noted there are not that many [GMA doc. #4859].

Another map [GMA doc. #4727] showed the three cities identified in dark blue with UGAs in lighter blue, with a red marker outline showing the joint planning area. The parcels noted in yellow within the JPA are those parcels 9 acres and larger. Staff unanimously agreed that regardless of location the protective standards addressed in the interlocal agreement not precluding urban development in the joint planning area was addressed and saw no need to do any down zoning there.

Review of graphics: "Rural Zone Acreage" and "Rural 10 vs. Rural 5", and how Mr. Tate prepared the 10 vs. 5 comparison using the data from the first graphic.

Rural 10 vs. Rural 5, first column under acreage numbers, as far as getting from Rural Zone Acreage to the Rural 10 and Rural 5: numbers under 20 acres and equal to or over 20 acres that both add up to 80,070 – that number includes the joint planning areas and mineral lands. The one on the bottom that compares the two scenarios is a gross figure.

Regarding the <20 acres - - - 69,532 in the rural 10 scenario and 44,519 in the rural 5 scenario, the difference was with one he broke it down so that the lower figure showed only the parcels dealing with under a minimum lot size so a rural 10 was just parcels 20- acres and lower. On the Rural 10 scenario would only be subdividable if 20 acres and larger. The column on the far left under the Rural 10 scenario shows more acres under 20 acres in size than the Rural 5, and Mr. Tate clarified that the size was wrong, and that under Rural 5 scenario under size should be corrected to reflect:

< 9 acres

>=9 acres .

Rural Zone Acreage graphic shows a double asterisk and Mr. Tate confirmed the reference was to quasi-public land [Seattle Pacific University property].

PUBLIC INPUT

Steve Erickson, WEAN, noted that Exhibit C, Findings to Ordinance #C-135-99, Finding #25 stating that "...will require fifty (50) foot buffers for all type 5 streams in the Rural Zone" was incorrect because of the County's action exempting agricultural throughout the County from standard critical area protections. Also he believed Exhibit C for Ordinance C-03-00, Finding #14 was incorrect where it states: "The Comprehensive Plan designates 77% of Island County for low density rural, rural agriculture, rural forest and commercial agriculture uses." in that over a third of the rural zone has already been subdivided to an average parcel size of 1.19 acres, which is not low density rural. Finding #34 states that "The County has determined that changing the wetland threshold size for non-estuarine wetlands located in the Rural Zone will also more effectively address protection of critical areas than will further down-zoning of subdividable lands classified in the Rural Zone". As far as County information or substantive analysis that could lead to such a conclusions he received back only a short paragraph relating that there were two areas of category B wetlands that Matt Nash was aware of that were not in agricultural use. One of those is in low grade agricultural use but he did not feel that related to much analysis or study to base such a statement and asserted completely unsupported by what is in the record. Further, the effectiveness graphs at the end of the document from Castelle & Johnson [Figure 2 and 3 and Figure 5 and 6] were from an unpublished paper and unclear what the peer review had been of that paper; further, he could not figure out the mathematical methodology for developing the effectiveness graphs.

As far as the graphic hand-out Mr. Tate used to make the overhead presentation [5630] Mr. Erickson noted the following:

The page noted "Rural 5 Subdivision-Critical Area Regulations", second bullet, "Wetlands and their buffers may not be altered in order to create a new parcel" , he mentioned that one of the changes made to the County's critical area regulations in 1998 was that parcels may now be created that require altering a buffer of a critical area to gain access. With regard to the page titled "Actions Taken Since GMHB Order that Provide Additional Protection to Rural Character" the last bullet "County authorization required for site investigative work" is not what was adopted, rather the ordinance adopted requires that the County be notified before site investigative work and does not actually require an authorization from the County.

Mr. Erickson submitted to the Board and the record the following materials [GMA doc. #5632] :

- Memorandum to Commissioners 4/8/00 re proposed actions relating to rural densities and wetland and stream
- 4/10/00 Frosty Hollow Ecological Restoration – Quantitative Analysis Based on National Wetland Inventory and a Course Filter Classification of the Impacts on Wetland Conservation of Proposed Changes to Wetland Classification, Designation, and Buffering Criteria
- Influence of Urbanization on Ecological Processes in Wetlands by Ronald M. Thom and Amy B. Borde, Battelle Marine Sciences Laboratory, Sequim, WA.; Klaus O. Richter, Department of Natural Resources, King County, Wa.; and Lyle F. Hibler, Battelle Marine Sciences Laboratory, Sequim, Wa.
- Article from Watershed Protection Techniques, Vol. 1, No. 3, Fall 1994 "The Importance of Imperviousness"
- WEAN – Build out Model: using WEAN's GIS potential build out of a forested area near Langley

He pointed out that though there is a claim that the pattern of parcels over 9 acres is so random throughout the county it is impossible to develop a pattern [pointed out the areas he was referring to on the map on the wall labeled #5299], he saw quite large aggregations of areas composed of parcels larger than 9 acres: large areas on South Whidbey in various locations; some in Central Whidbey; a few in North Whidbey particularly near Deception Pass State Park and buffer; some on Camano Island. He then referred to his model exercise [from his packet of hand-out materials] "Buildout Model" and explained that he took an area on the map looking at an air photo and zoning atlas for that area, an area of approximately 828 acres composed almost entirely of large rural parcels mostly 40 acre parcels with a strip [see sheet 2] of rural forest land along the eastern side [pointed out the area on larger map posted shown to be right around Saratoga near Baby Island]. Sheet 3 shows road network [ignored Lone Lake Road], houses and driveways, sized as if the house and driveway together were

approximately one acre in size. Sheet 3 shows what the area would look like relative to development at existing parcelization, ending up with 37 acres of roads or about 4-1/2 % of the total area; 33 houses or about 4%. [sheets 2, 3 and 4 are 1 to 9600; 1" = 800']. Sheet 4 shows what this would look like at build out: all the rural forest land—strip along the eastern side goes down to 10 acres; everything else goes to 5. He predicated the large roads being approximately 50' wide total area including road and cleared right-of-way; the driveways for the houses assumed 20' equivalent, ending up with about 62 acres of roads or about 7-1/2 % and about 139 houses or about 16.8% of the model area, so about 24% of that entire area becomes developed. The results are clear: low density sprawl. The effects on wildlife and habitat and aesthetics he thought were all obvious.

Mr. Erickson thought limitations on impervious surfaces in Ordinance C-30-00 were very much needed but the numbers had no bearing in any kind of scientific data [in the model assuming one acre that is the building surrounding area for example converted to lawn and the driveway]. Two of his hand-outs discuss this to some extent: Influence of Urbanization on Ecological Processes In Wetlands and The Importance of Imperviousness. He recommends a change starting with development standards relating to retention of native vegetation and limitation on creation of large lawns.

He asserted that County regulation of type 5 streams had serious deficiencies: fails to recognize and protect terrestrial and amphibious habitat function of the streams and surrounding area; does not recognize the ecological affects on streams that occur because of their setting in an island landscape; provides inadequate buffers for all streams adjacent to or subject to farming activities; provides inadequate buffers for non-salmon bearing streams; and inadequate buffers for all type 5 streams not in the rural zone. He observed proposed changes to wetlands being a step in the right direction but thought it would have little effect overall. His conclusion in analyzing data was that based on mapped wetlands the area county wide that would be affected would be 27 wetlands between an 1/8 of an acre and 1/4 acre classified and protected as Category A wetlands not currently protected totaling a little less than 5.3 acres. There were 128 wetlands that appeared to meet the criteria for Category B wetlands but not dominated by native vegetation; those between 1/4 and less than 1 acre in size totaled a little over 72 acres. About 39 wetlands were less than 1/4 of an acre totally about 6.6 acres. In terms of non-estuarine wetlands in the County as far as mapped by National Wetland Inventory, there are 14,200 acres. The result is that about .00376% of all mapped wetlands would now gain protection as Category A wetlands, and less than .05 of all mapped wetlands would now gain protection as Category B. AG exemption: GIS classification of the Maxwellton watershed suggests that about 68% of wetlands in that watershed were agricultural use and Mr. Erickson contends changes proposed have almost no impact on any Category B wetlands that are farmed and Mr. Erickson believes the vast majority of Category B wetlands are farmed.

Gordon Erickson, Bell's Beach, Langley, born on Whidbey Island 78 years' ago, stated that he and his family had owned property on Whidbey Island for all those years. He and his wife now own 60 acres of land; put in an approved well and did everything according to County requirements, and done well for the property. They worked hard to maintain the property wanting to keep it nice for their children and grandchildren and others who look at it. One thing he pointed out unique to Whidbey

Island compared to other counties was that 5 acres on Whidbey Island can maintain rural atmosphere, and with 5 acres, more people can afford to buy property whereas an extreme of 20 or 40 acres eliminates a lot of people. He thought rural residential 5 acres was very adequate. Driving around the Island, much has changed but it still looks nice to him.

Thomas J. Roehl, spoke for himself as a professional planner, the Property Rights Alliance, for other parties currently part of the matter, Smith, Shaw, etc. he represents, and some other landowners, and submitted the following packet of items [most submitted for the record at an earlier time] containing the following [today's GMA doc. #5631]:

- e-mail to County Commissioners regarding "Basis of writing 'Good Law' – Substantive Due Process, the three elements that have to exist to meet substantive due process requirements for constitutionality of a law:
 - has to be a government purpose
 - regulation must further government purpose
 - burden not unduly oppressive to the property owners
- Copy of a Memorandum to Rural Densities Committee members dated 9/22/99
- copies of maps from Island County web site [1997 Walker Associates] to show that contrary to the exhibit by Mr. Erickson about what happens in build out of 5 acre tracts, these show what has occurred historically and that most of the 5 acre subdivisions after 20 years are not built out:

Maple Glen – large 5 acre subdivision, Section 12
 Wildwood Plat – NE of Freeland surrounding a cleared area
 Highland Meadows [Grasser's Hill north of Coupeville]
 Ridgeview - 38 or 40 five-acre tracts

Though Steve Erickson talked about 5 acre development being urban sprawl or threatening wildlife habitat, if people built the way his build-out assumed there could be a case for that, but Mr. Roehl pointed out there was no history of anything like that. The typical driveway from the road to the house is 12' wide; there may be a 60' right-of-way but typically the cleared portion is 30', the road 20', and most are gravel. The pattern of how people build on 5 acre tracts is very irregular, which is as he thought it should be. He had no problem with the 5 % rule but did have some problem with the other two standards, and did not think those two standards would meet stated intent [used blackboard to demonstrate what he was talking about]. The problem with the 50' side yard setback and 300' road frontage is there should be a provision to modify. One reason for an administrative variance would be if a property owner could demonstrate protection of more habitat area by doing it a different way. The 50' side yard setback takes a step towards what really should be avoided: creating uniformity of where people build on their site. It is not natural for people with 5 acre tracts to want to build close to property lines. He was interested in seeing a provision to allow for an administrative modification based on topography, critical areas or wildlife habitat. Exhibit C to Ordinance #C-30-00, second page item e), for the front yard as well. He did not see that the 300' frontage requirement provides the stated benefit.

Mr. Roehl thought 5 acres was a perfect balancing threshold in terms of how people live, what the history of those subdivisions are, how they encourage rural lifestyles, the kind of people that live on 5 acre tracts who seem to be more in tune with and care for the land better. Five acres is not a small lot and he thought to categorize 5 acre tracts as small lots and urban development was ridiculous. The 5 acre threshold he thought was worth defending for this County, and was one of the few ways people will be able to do something affordable in this County.

Although he had no solution to offer, he hoped the County would spend more time on the issue of application of the area for wetlands and increased buffers for streams. He believed Mr. Erickson's contention about increased runoff and impacts from 5 acre subdivisions was not true in a typical sense. In a typical 5 acre subdivision people build a house and if the runoff even leaves the lawn area it would be a rare situation. Most impacts are absorbed. Quoting from the Effects of Urbanization and applying it to 5 acre subdivisions does not fit. Mr. Roehl and his clients actually do not like any of this but were willing to compromise if it results to an end.

Marianne Edain, WEAN, Langley, referred to Exhibit C to Ordinance #C-135-99, Findings, the figure on population density in San Juan County as opposed to Island County, and asked if the acreage figure for San Juan County included just the land mass or the water in-between. Mr. Dearborn confirmed it was just the land mass.

She thought the Findings talked a lot about stringent protection for critical areas, but her view was that the stringent protection described is somewhat illusory on the ground and that stringent protection as described is not happening, seeing constant fairly steady degradation of critical areas and wildlife habitat. While protection of rural character may have been a goal since 1977 she did not believe it had been happening. She pointed out that rural character was dependent not on what is seen from the windshield but from functional communities of plants and animals interacting. She wondered about the point of Mr. Tate's showing the picture of Winterhawk Lane platted in the Seventies, noting out of 19 lots only 2 were developed; the fact the lots were not yet built does not mean rural character has been preserved.

As to the claim by Mr. Tate and committee that there is no pattern, she directed attention to the maps on the wall showing Maxwelton, Glendale and other streams and parcel sizes around them. What she saw was a pattern: larger parcels interspersed with the parcels in yellow [zoned rural] which make perfect connections so that a much greater portion of the Maxwelton stream channel itself would be protected by maintaining these parcels. The pattern is one of connectivity of larger parcels; larger parcels will protect the streams. In Glendale she saw the same thing, especially at the head waters: larger parcels not subdivided would protect Glendale. Chapman Creek on Camano has the same kind of pattern with larger parcels adjacent to the creek. The map notes an "unknown stream" that has a similar situation where the larger rural zoned parcels will help protect the stream corridor if they remain in a larger parcel size. Retaining ten acre rural zoning would do a great deal to protect those stream corridors. Concerning talk about limiting access to the property by limiting size of parcels she pointed out at present existing parcelization at smaller than ten acres is something like 2/3 of the rural zone. There are a great many parcels of five acres and smaller that are undeveloped and are available for purchase or development if people choose. Further fragmenting what is left of the large parcels is not an appropriate response.

Ms. Edain agreed with Tom Roehl with regard to the 300' frontage question. When looking at models the first thing WEAN saw was that would create a situation likely to create more wildlife habitat fragmentation than less. Her solution is to retain ten acre rural zoning. The Hearings Board required the county look at a variety of rural densities and when 1/3 of the rural zone is already at an average of 1.256 acres that is not a rural density and should not be included in a variety of rural densities. She did not think the proposed fixes were enough even in the aggregate to overcome going back to the 5 acre zoning and WEAN recommends strongly retaining the current 10 acre zoning. As to Mr. Roehl's statement that no one would build along the property line she indicated it does occur.

On the question of critical area protection, she referred to an April 5 legal ad in the *Whidbey News Times* with regard to a clearing and grading permit, the harvesting of approximately three acres of alder to restore view for adjacent parcels within a wetland, a flood hazard area, and bald eagle habitat. The Hearing Examiner in 1989 in a similar case found that had a probable adverse environmental impact. The bottom line for WEAN was wanting to see critical areas protected for the sake of the critical areas and the wildlife habitat as opposed incidentally to aesthetics. She submitted for the record a copy of *THE SNAG*, April, 2000 Whidbey Environmental Action Network, Vol. 8, No. 1, which includes graphic on current and proposed densities in the rural zone, and an article: "Which Part of No Don't They Understand?": GMA Doc. #5633

No one in the audience indicated any further desire to address Ordinance #C-135-99 and the public input portion of the hearing was closed for that ordinance.

Ordinance #C-03-00 and Ordinance #C-30-00 PUBLIC INPUT

Steve Erickson on behalf of WEAN, directed attention to some information from one of the studies "Importance of Imperviousness", page 102, figure 2-channel stability as a function of imperviousness, where the authors essentially drew a line between generally stable channels and generally unstable channels related to 10% impervious area incatchment. On page #104 figure 5 the authors detected a fairly immediate effect in terms of impact on macroinvertebrate communities based on imperviousness at low levels; page 106 contains another figure showing fish diversity as a function of watershed imperviousness, clear there is gradation there; other studies are cited saying that: "Trout have stringent temperature and habitat requirements and seldom are present in mid-Atlantic watersheds where imperviousness exceeds 15%. Declines in trout spawning success are evident above 10% imperviousness. In the Pacific Northwest, Luchetti and Feurstenburg seldom found sensitive coho salmon in watersheds beyond 10 or 15% imperviousness. Booth and Reinelt noted that most urban stream reaches had poor quality fish habitat when imperviousness exceeded 8 to 12%.". Another remark on the same page states: "Indeed, it may be difficult to prevent shellfish closure when more than one septic drain field is present per seven acres -a very low urban density.".

Regarding effects of habitat fragmentation under different zoning scenarios and build-out scenarios, Mr. Erickson said that eventually if the lot is created and owned it will be built. He agreed with Mr. Roehl that those narrow lots are a problem; requiring a wide lot will create more habitat fragmentation. Two points he noted about that: typically not everybody would build within about 80' or so of the road and typically would put their houses further back in a variable fashion to some extent thereby creating more clearing from the driveways, fragmenting the habitat more [not deer and rabbits, but northern flying squirrels and pileated woodpeckers]. The 300' wide lots are a problem [to illustrate drew a diagram on the blackboard], noting the solutions other than having no required minimum width: one, not allow the increased density; the other is to require clustering.

No one in the audience indicated any further desire to address Ordinances #C-03-00 and C-30-00, and the Chair then closed the Public Input portion .

BOARD DISCUSSION/REVIEW AND ACTION

Ordinance #C-03-00

Amendment #1.

The Board agreed to not consider Amendment No. 1 to C-03-00, rather to replace it with Amendment # 4.

Amendment #4.

Commissioner Shelton stated this was not his preferred way to deal with the issue and would sooner leave the wetland threshold size as is; however, clearly one of the June 2nd remands was that the County consider variety of densities the way it affects resource lands and urban growth areas. Because he believes very strongly in Ordinance #C-135-99 and that 5 acres is the appropriate parcel size in the Rural Zone he was willing to support Amendment #4 that will provide additional

protection to critical areas.

Commissioner Thorn saw it as a step in the right direction and wanted to move on with it. He has been on record regards Mr. Castelle's analysis and validity, and thought there were enough assumptions and guesses in what Steve Erickson did that that five acres and seventy-two acre number could be off by a factor of one hundred and he did not think those aerial photographs are useful when looking at forested wetlands. The majority of the County's wetlands are forested, maybe not the larger ones, but the smaller ones, and he could point out hundreds of examples on Camano Island where there are dozens of them.

There is enough looseness to the conclusions that should not be a governing criteria.

Chairman McDowell did not support Amendment No. 4. If Mr. Erickson was correct about Category A wetlands only protecting 5.3 acres he saw no reason to burden the County or its residents for that small amount. Category B wetlands results in a little larger number of acres, 72 acres. He did not think the result warrants this action by the County, although it provides some additional protection. However, he personally believed the County had provided sufficient protection without this additional step.

Mr. Dearborn clarified for the record that Larry Kwarsick participated in the development of the amendments and advised either Amendment #1 or #4 had a significant impact in terms of the number of additional acres that become regulated as a result.

The bigger issue on the part of Commissioner Shelton was to provide critical area protection to further validate that the County took these measures so that the variety of densities, impact to critical areas have been properly addressed.

Commissioner Shelton moved approval of Amendment No. 4 to Ordinance #C-03-00. Motion, seconded by Commissioner Thorn, carried by majority vote; Chairman McDowell voted opposed.

Amendment #2

For record clarity, Mr. Dearborn explained that the changes in Amendment No. 2 are not qualified with the existing and on going agriculture condition in amendment #4, but apply to lands devoted to existing and on going agriculture as they would apply to lands that are not. When BMPs for Agriculture were adopted the Board had anticipated this change would potentially affect BMPs and dealt with that as a part of that action.

Chairman McDowell recalled testimony by Mr. Erickson that he could not validate findings through his research, but the Chair accepts the graphics as correct having been provided by a professional. On his review of the graphs and public testimony he still personally believed 25' adequate but was willing to go along with the increased buffer.

Commissioner Thorn did not think a 25' buffer was effective nor did he think Mr. Castelle's graphs showed that. Mr. Castelle gathered information from a lot of other professionals some which the Commissioner thought had been interpreted incorrectly. Nevertheless, he saw it as a step in the right direction and supported Amendment No. 2 .

Mr. Dearborn in looking at the graphics with the amendment in mind, pointed out that the buffer was being expanded to 50' for Category B wetlands and for all of the Type 5 streams in the Rural zone. When that expansion to 50' is done it appears the County clearly are within that zone of protection. Commissioner Thorn agreed with Mr. Dearborn on that point, and he was supportive of the amendment.

Commissioner Shelton moved that the Board adopt Amendment No. 2 to Ordinance #C-03-00. Motion, seconded by Commissioner Thorn, carried unanimously.

Amendment #3

Mr. Dearborn commented to make clear that the changes the Board proposes for the wetland threshold size and for a category B would become effective only if there is no further need to modify the five acre zone. The Type 5 stream buffer is an invalidity action of the Growth Board and does not go into effect until the Growth Board determines it would no longer substantially interfere.

Commissioner Shelton moved approval of Amendment #3 to Ordinance #C-03-00. Motion, seconded by Commissioner

Washington Growth Management Hearings Board determines that they do not substantially interfere with the goals of the GMA. The amendments to ICC 17.02.107.E.16 and ICC 17.02.110.A.3 and 4 relating to wetland threshold sizes and buffers shall not take effect unless and until it is determined that permanent changes are not needed to the five (5) acre minimum lot size for the Rural zone to comply with the Growth Management Act. All other amendments contained in Exhibit A and those contained in Exhibit B shall take effect on the date of adoption of this ordinance.

BE IT FURTHER ORDAINED that Interim Ordinance C-96-99, adopted August 23, 1999, is repealed.

Reviewed this 10th day of January, 2000 and set for public hearing at 1:30 p.m. on the 14th day of February, 2000.

**BOARD OF COUNTY COMMISSIONERS OF
ISLAND COUNTY, WASHINGTON**

Wm. L. McDowell, Chairman
William F. Thorn, Member
Mike Shelton, Member

ATTEST: Margaret Rosenkranz
Clerk of the Board BICC 00-28

APPROVED as amended at Hearing of 4/10/00 AND ADOPTED this 10th day of April, 2000.

**BOARD OF COUNTY COMMISSIONERS OF
ISLAND COUNTY, WASHINGTON**

Wm. L. McDowell, Chairman
William F. Thorn, Member
Mike Shelton, Member

ATTEST: Margaret Rosenkranz,
Clerk of the Board

APPROVED AS TO FORM:

David L. Jamieson, Jr.
Deputy Prosecuting Attorney
& Island County Code Reviser

[note: Exhibits on file with the Clerk of the Board]

Ordinance #C-30-00 [PLG-010-00]

Mr. Dearborn noted a correction to be made as pointed out by Steve Erickson : the fourth “whereas” on the first page, the line beginning “reducing the minimum lot size” should be “increasing”. With regard to site coverage the only amendment was to create a building coverage restriction for parcels [new or existing] 5 acres or larger in size, which includes the home, garage, shop, and all accessory uses relating to that home, but does not include the driveway. Added to that potentially would be the restriction for non-residential uses if there were a home industry, for example, on the property. For that five acre lot if the owner wishes to have impervious surface of 5,000 sq. ft. or more would require compliance with drainage regulations. On the question of whether there should be an impervious surface ratio, Larry Kwarsick did not recommend there be one because the regulatory requirement begins at about 2% of the total property and existing stormwater regulations that are GMA compliant are sufficient protection from impervious surface standpoint. A part of Mr. Kwarsick’s consideration was the fact the County now regulates clearing of two acres or more regardless of zone or parcel size. Staff told Mr. Dearborn that the building coverage restriction was the most effective additional regulation needed to address the question of disturbed area.

The other question brought up in public testimony was whether there needed to be any lot frontage restriction; 300’ was recommended by staff. Concerning questions on setbacks, side yards and rear yards, all of those can be varied, and only applied to new lots. If an applicant determines that because of topography or critical areas or any of the factors in subsection 4, that would be dealt with as part of the short plat or subdivision.

Commissioner Thorn thought the point had been well made from both sides and believed it probably was an unnecessary restriction; keeping silent on it allows some flexibility as to how the County would address that question specifically case by case. Commissioner Shelton agreed. Consensus: eliminate #8 and modify Finding #4 appropriately.

Commissioner Thorn agreed with the point Mr. Roehl made on item e) about setback variation should include as a reason for variance wildlife habitat in addition to lot topography or critical areas and suggested adding "or wildlife habitat". Consensus: agreed.

Commissioner Shelton moved that the Board adopt Ordinance #C-30-00, PLG-010-00, in the matter of Amending Chapter 17.03 of the Island County Code to comply with the order of the Western Washington Growth Management Hearings Board relating to Residential Uses in the Rural Zone, with the following changes:

Fourth "Whereas" paragraph: change the word "reducing" in the second line to "increasing"

Exhibit A, second page, item e) be rewritten to state: The setback, side yard and rear yard requirements for new lots may be reduced when necessary to account for Lot topography, or critical areas or wildlife habitat with any reduction based on the factors set forth in subsection 4 below.

Delete Item 8, lot dimensions in the R zone;

Exhibit B, Findings and Legislative Intent: No. 4 – delete the second sentence and the last sentence.

[Ordinance #C-30-00 as adopted GMA Doc. #_____]

BEFORE THE BOARD OF COUNTY COMMISIONERS
OF ISLAND COUNTY, WASHINGTON

IN THE MATTER OF AMENDING CHAPTER))))) ORDINANCE C-30-00
17.03 ICC, TO COMPLY WITH THE ORDER OF
THE WESTERN WASHINGTON GROWTH PLG-010-00
MANAGEMENT HEARINGS BOARD RELATING
TO RESIDENTIAL USES IN THE RURAL ZONE

WHEREAS, various parties filed petitions with the Western Washington Growth Management Hearings Board ("Western Board") to review Island County's adopted GMA Comprehensive Plan ("Comp Plan") and Development Regulations; and

WHEREAS, the Board entered its Final Decision and Order on June 2, 1999; and

WHEREAS, the Western Board directed the County to reconsider the five acre minimum lot size for the Rural Zone; and

WHEREAS, the County has completed its review of the Rural Zone and determined that **increasing** ~~reducing~~ the minimum lot size in the Rural Zone will not necessarily add to the variety of densities found in the rural area in a manner that provides greater protection to critical areas, resource lands or the rural character of the County; and

WHEREAS, the County has determined that more stringent development standards for residential development in the Rural Zone are needed to protect rural character; and

WHEREAS, in 1998, the County completed environmental review under Chapter 43.21.C RCW (SEPA) on its Comp Plan and Development Regulations including the Rural Zone; and

WHEREAS, pursuant to WAC 197-11-600, the County SEPA official has determined that the proposed changes to Chapter 17.03 ICC relating to residential uses in the Rural Zone are not likely to have significant adverse environmental impacts that were not considered in the environmental documents prepared for the Comp Plan and

Development Regulations. **NOW, THEREFORE,**

BE IT HEREBY ORDAINED in order to comply with the June 2, 1999 Final Decision and Order of the Western Washington Growth Management Hearings Board, the Board of Island County Commissioners hereby adopts the amendments to the Island County Zoning Code, Chapter 17.03 ICC (Exhibit A), and the Findings and Legislative Intent (Exhibit B) all attached hereto, relating to certain lands in the Rural Area. Material stricken through is deleted and material underlined is added.

BE IT FURTHER ORDAINED that these amendments will replace the interim regulations contained in Ordinance C-75-99 as amended by C-160-99. These amendments shall not take effect unless and until it is determined that permanent changes are not needed to the five (5) acre minimum lot size for the Rural Zone to comply with the Growth Management Act. After said determination, Ordinance C-160-99 will no longer remain in effect.

Reviewed this 22nd day of March, 2000 and set for public hearing at 1:30 p.m. on the 10th day of April, 2000.

**BOARD OF COUNTY COMMISSIONERS
ISLAND COUNTY, WASHINGTON**
Wm. L. McDowell, Chairman
[absent - William F. Thorn, Member]
Mike Shelton, Member

ATTEST: By Ellen K. Meyer, Deputy For:
Margaret Rosenkranz , Clerk of the Board
BICC 00-184

APPROVED AS AMENDED AT HEARING OF 4/10/00 AND ADOPTED this 10th day of April, 2000 following public hearing.

**BOARD OF COUNTY COMMISSIONERS
ISLAND COUNTY, WASHINGTON**
Wm. L. McDowell, Chairman
William F. Thorn, Member
Mike Shelton, Member

ATTEST: Margaret Rosenkranz
Clerk of the Board

APPROVED AS TO FORM:
DAVID L. JAMIESON, JR.
Deputy Prosecuting Attorney
& Island County Code Reviser
[note: Exhibits on file with the Clerk of the Board]

Ordinance #C-135-00

Mr. Dearborn reviewed several small corrections as covered during the 1/10/00 hearing that need to be made, on page A-3 [A-3 prepared before the Board adopted the final Rural Forest zone]:

First line [20 acre line] under zone the reference to RF needs to be struck and then inserted after RA First line, 18,670 changes to 4,680; 17% changed to 4%. On the 10 acre line, the 6,080 changes to 20,070 and 5% changes to 18%.. Correction foot-note 2 identified by John Graham in 1/10/00 comments, where it says 9 acres to 20 acres, the phrase "to 20 acres" needs to be deleted replaced by "9 acres and larger".

He noted too that the one provisional graphic attached to the Findings "Lot Size Distribution" , with the addition of the two graphs, is no longer necessary. With Amendment #4 and changes to the new residential development land standards, changes

need to be made to Finding #24 and Finding #25:

Finding #24: second line, delete last four words “and lot dimension requirements” and after “limitations” insert the word “and”.

Finding #25: The reference to size threshold for wetlands is not correct and should say, after the word “will, “ : “ except for existing and on-going agriculture.”.

Chairman McDowell confirmed his agreement that two graphics should be added to the Findings: Rural Zone Acreage and Rural 10 vs. Rural 5. He thought it amazing looking at the rural 10 vs. rural 5 scenario that the increase from the number of parcels going from Rural 10 to Rural 5 is right around 13%, and almost identical the other direction, which he saw as a significant issue: double the zoning results in only 13% fewer lots going from 5 to 10 acre zoning. On the chart, he suggested a pen and ink addition: place an asterisk beside the numbers 28,755 and 33,033 and at the bottom of the chart the note: “in going from a rural 5 to a rural 10 zoning the number of potential parcels decreases by 13% in the rural zone. Also, the chart needs to reflect the corrections: under Rural 5 scenario sizes, change less than 20 acres to less than 9 acres and the greater than or equal to, to 9 acres. Should the Board agree, Mr. Dearborn reviewed a new Finding [new Finding #17] and a correction to Finding #16 for consistency.

Looking at one of the maps posted on the wall, GMA doc. #5299, Mr. Dearborn recalled that Steve Erickson had been provided the map in November of 1999 during settlement discussions. With regard to Mr. Erickson’s generalized statements made today about some areas of concern where he sees a pattern, Mr. Dearborn thought was not sufficient for the Board to be able to make a determination. One area Steve Erickson identified was an area at the north end of Whidbey Island where he indicated was a pattern that would justify down zoning to protect the State park. However, Mr. Dearborn did not believe that was a basis for establishing a variety of rural densities under GMA. The County has nothing from State Parks indicating the need to manage land uses outside the State Park through a reduction in density.

The second area Mr. Erickson identified is located in Central Whidbey around Ebey’s Prairie all managed in the Ebey’s Historic district with special regulations, most zoned agriculture. Looking at the map, the color dark brown [*note: could be described as dark butterscotch color*] is 20 acres and larger zoned rural; the lighter color is 10 acres and larger; there are a random number of very few small parcels adjacent to the most significant scenic area; staff saw no justification to single out those few parcels for further regulatory treatment, and the County did not receive from National Parks Service, Rob Harbour [Ebey’s Reserve Manager] or the Town of Coupeville, any request to further down zone those areas to protect Central Whidbey.

The third area identified by Mr. Erickson is located on South Whidbey in the Saratoga area, and has a very large parcel area in the 20 acre+ size zoned Rural adjacent to some rural forest lands, but that is the only area that stands out as potentially a large block of land. Everything else is a randomized pattern that does not seem to create any specific way to identify a sub-area. Camano Island has been reviewed a number of times and cannot see where there would be any defensible justification to down zone the remaining parcels to a 10 acre minimum lot size on an argument that rural character would be protected better. There are only a few parcels totally scattered throughout that area.

Mr. Dearborn realized as did the Board that rural density is one of the objectives in GMA and a variety of rural densities but the GMA also allows for decision makers to consider unique local circumstances.

Commissioner Thorn looked at maps exhibit #5299 and #5298 and noted the disconnectedness between those larger parcels Mr. Dearborn just described was obvious, and entirely obvious on Camano Island. There is large parcel on South Whidbey but not buttress a particular commercial AG area and did not see where doing anything with those could accomplish anything.

According to Commissioner Shelton, the crux of what the Board has been attempting to do in development of the entire Comp Plan was to meet the challenge of a variety of densities. It would be different if the Board were working with a “clean sheet of paper”.

Commissioner Thorn reinforced Mr. Shelton’s comment about clean sheet of paper because the County is dealing with a legacy from 25-30 years’ ago of over-platting in the county.

Chairman McDowell agreed with Commissioners Shelton and Thorn that the County was not starting with a clean slate, that in the 1950’s through 1970’s averaged 800 lots per year; the 1984 comp plan placed more regulations and the average

number of lots dropped down to 115 lots per year. He guessed it could continue to drop some amount. There is a supply and demand; property here is more affordable to a lot more people than in San Juan County. There is a supply and demand that enters into the goals clearly relating to affordable property and housing. As far as Marianne Edain's comments about non-enforcement by the County he thought that was not correct because several years' ago the County created an enforcement position. The comment that in her opinion the County was losing its rural character because of development he thought was in the eye of the beholder, as an example, the comments by Gordon Erickson today. Steve Erickson's exhibit map showing subdivision of 820 acres down into 5 acre parcels and what it would look like if all built out, he disagreed in that the record does not show that for every 5 acre parcel a full acre is cleared for the lawn or housing. He recalled photographs from the sub-committee on Camano Island showing 5 acre parcels where clearly less than 1/5th of the property was cleared on those parcels. Again, he did not believe that was a correct portrayal of how property has developed. If one took the 820 acres and on that 137 new lots created,

that is little over one year's worth development if **all** development happened on that 820 acres; reality is a total of around 28,000 acres of parcels that could be developed – divide that by 115 comes out to be almost 200 years, therefore he agreed with Commissioner Thorn that Steve Erickson's calculations could be off by 100 years. He disagreed there is a pattern and absolutely saw no pattern.

Commissioner Thorn added about having looked intensively for a way to find another 10 or 20 acre zone and it just never cropped up even though having looked at it from several different points of view including how to protect critical areas or following critical areas, or the pattern on the two exhibits.

Chairman McDowell thought that in balancing all the issues and looking at what the numbers imply that Ordinance #C-135-99 did the right thing.

Commissioner Shelton moved adoption of Ordinance #C-135-99, PLG-042-99, in the matter of Amending the Comp Plan and Development Regulations to Comply with the Order of the Western Washington Growth Management Hearings Board relating to Rural Densities in the Rural Area with the following changes:

Page 2 of the Ordinance, delete the last paragraph starting "BE IT FURTHER ORDAINED" and replace it with the "BE IT FURTHER ORDAINED" from Ordinance #C-30-00:

"BE IT FURTHER ORDAINED that, upon taking effect, these amendments will replace the interim regulations contained in Ordinance C-75-99 as amended by C-160-99 and any future renewals of those ordinances. These amendments shall not take effect unless and until it is determined that permanent changes are not needed to the five (5) acre minimum lot size for the Rural Zone to comply with the Growth Management Act. After said determination, Ordinance C-160-99 will no longer remain in effect."

Exhibit A-1 second paragraph second line from the bottom of the paragraph correct typo "aces" to correctly read "acres"

Page 3 Exhibit A Figure 3.21 Rural Area Lot Size

First line – 20 acre strike "RF"; change 18,670 to 4,680 and 17% to 4%

Second line – 10 acre add in addition to RA, "RF"; change 6,080 acres to 20,070 and 5% to 18%. Under Notes, strike at the end of 2. "to 20 acres" and insert "and larger".

Exhibit C, Findings and Legislative Intent, Rural Densities, 4/10/00 Revised

Page 5 under Item 16 after "(115 lots per year)" add ", and including mineral lands and lands located within JPAs,"; strike 50 and replace it with 62. At the end of that sentence, strike "in half" and replace with the words "to 9 years".

New #17: "Changing the zoning minimum lot size from 5 acres to 10 acres will reduce the potential number of new lots by 13%."

Make appropriate renumbering changes for the following item numbers.

What now becomes #25 instead of #24, after the word limitations in the second line insert “and”; place a period after the word “setbacks” and eliminate the words “and lot dimension requirements”.

Under what now becomes #26, after the words “Ordinance C-03-00 will” add the following: “, except for existing and on-going agriculture,”.

Add two graphics from Jeff Tate’s presentation:

Rural Zone Acreage with the addition at the bottom of the chart:
“** quasi public land [Seattle Pacific University Property]”

Rural 10 vs. Rural 5 – Ultimate Parcelization, with changes:
under Rural 10 scenario place an asterisk beside 28,755
under Rural 5 scenario place an asterisk beside 33,033
under Rural 5 scenario sizes, change less than 20 acres to less than 9 acres and the greater than or equal to, to 9 acres.
At the bottom of the chart place two ** with the following words:
“In going from Rural 5 to Rural 10 zoning the number of potential parcels decreases by 13%.”

Delete the provisional graphic attached to the Findings Exhibit C because it is no longer necessary titled “Lot Size Distribution” .

Motion, as made and seconded by Commissioner Thorn, carried unanimously. [adopted ordinance GMA doc. # _____]

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF ISLAND COUNTY, WASHINGTON**

IN THE MATTER OF AMENDING THE COMP PLAN AND DEVELOPMENT REGULATIONS TO COMPLY WITH THE ORDER OF THE WESTERN WASHINGTON GROWTH MANAGEMENT HEARINGS BOARD RELATING TO RURAL DENSITIES IN THE RURAL AREA
))))))
ORDINANCE C-135-99
PLG-042-99

WHEREAS, various parties filed petitions with the Western Washington Growth Management Hearings Board (“Board”) to review Island County’s adopted GMA Comprehensive Plan (“Comp Plan”) and Development Regulations; and

WHEREAS, the Board entered its Final Decision and Order on June 2, 1999; and

WHEREAS, the Board found that certain provisions of the Rural Zone did not comply with the GMA and therefore replacement regulations are needed to govern land use in the Rural Area; and

WHEREAS, the Board directed the County to reconsider the five (5) acre lot base density in the Rural Area; and

WHEREAS, the Board directed the County to ensure that the Rural Area of the County has a variety of densities; and

WHEREAS, the Board concluded that a pattern of five-acre lots could present an undue threat to natural resource lands, critical areas and the expansion of UGAs; and

WHEREAS, in 1998, the County completed environmental review under Chapter 43.21.C RCW, SEPA, on its

Comp Plan and Development Regulations including the Rural Zone; and

WHEREAS, pursuant to WAC 197-11-600, the County SEPA official has determined that the proposed changes to the Comp Plan and Chapter 17.03 ICC to comply with the Order of the Growth Board, relating to rural densities in the Rural Area are not likely to have significant adverse environmental impacts that were not considered in the environmental documents prepared for the Comp Plan and Development Regulations.

NOW, THEREFORE, BE IT HEREBY ORDAINED in order to comply with the June 2, 1999 Final Decision and Order of the Western Washington Growth Management Hearings Board, the Board of Island County Commissioners hereby adopts the amendments to the Island County Comp Plan (Exhibit A); the Zoning Code, Chapter 17.03 ICC (Exhibit B); and Findings and Legislative Intent (Exhibit C) all attached hereto, relating to certain lands in the Rural Area. Material stricken through is deleted and material underlined is added.

BE IT FURTHER ORDAINED, that upon taking effect, these amendments will replace the interim regulations contained in Ordinance C-75-99 as amended by C-160-99 and any future renewals of those ordinances. These amendments shall not take effect unless and until it is determined that permanent changes are not needed to the five (5) acre minimum lot size for the Rural Zone to comply with the Growth Management Act. After said determination, Ordinance C-160-99 will no longer remain in effect.

Reviewed this 18th day of October, 1999 and set for public hearing at 1:30 p.m. on the 8th day of November, 1999.

**BOARD OF COUNTY COMMISSIONERS
ISLAND COUNTY, WASHINGTON**

Mike Shelton, Chairman
Wm. L. McDowell, Member
William F. Thorn, Member

ATTEST: Margaret Rosenkranz
Clerk of the Board BICC 99-591

APPROVED as amended at Hearing of 4/10/00 AND ADOPTED this 10th day of April, 2000.

**BOARD OF COUNTY COMMISSIONERS
ISLAND COUNTY, WASHINGTON**

Mike Shelton, Member
Wm. L. McDowell, Chairman
William F. Thorn, Member

ATTEST: Margaret Rosenkranz
Clerk of the Board

Exhibit "B", Development Regulations,

APPROVED AS TO FORM:

DAVID L. JAMIESON, JR.
Deputy Prosecuting Attorney
& Island County Code Reviser

[note: exhibits on file with the Clerk of the Board]

There being no further business to come before the Board at this time, the Chairman adjourned the meeting at 6:00 p.m., to meet in Regular Session on April 17, 2000 at 9:30 a.m.

**BOARD OF COUNTY COMMISSIONERS
ISLAND COUNTY, WASHINGTON**

Wm. L. McDowell, Chairman

William F. Thorn, Member

Mike Shelton, Member

ATTEST: _____
Margaret Rosenkranz, Clerk of the Board