

**ISLAND COUNTY COMMISSIONERS - MINUTES OF MEETING
REGULAR SESSION - AUGUST 28, 2000**

The Regular Meeting of the Board of Island County Commissioners was held on August 28, 2000, beginning at 11:30 a.m. with the monthly Roundtable with Elected Officials, followed by other meeting items as listed on the Agenda beginning at 1:30 p.m., *including* Diking Improvement District #4. The meeting was held in the Island County Courthouse Annex, Hearing Room, Coupeville, Wa., with Wm. L. McDowell, Chairman; William F. Thorn, Member; and Mike Shelton, Member, present. By unanimous motion, the Board approved and signed the following minutes: August 21, 2000.

ROUNDTABLE MEETING WITH ISLAND COUNTY ELECTED OFFICIALS

Attendance

Elected Officials: Tom Baenen; Robert Bishop; Marilee Black; Mike Hawley; Maxine Sauter

Others: Margaret Rosenkranz; Dick Toft

NEW SCHOOLS OPENING ON CAMANO

The flashing signal light system for school zones on Camano Island associated with Utsalady and Elger Bay schools unfortunately will not be installed by the time school starts this week. Having no signal light at Utsalady school in particular might place some burden on the Camano Deputy for a week or two. The County rented two message boards for a period of two months to be located about ½ mile before the schools to warn of school opening and to slow down for the school zone. A full time deputy probably will be needed in that location for first two weeks just to slow everyone down.

INITIATIVE 722

State Assessors are meeting tomorrow with State Department of Revenue representatives where initiative 722 is one of the items of discussion. Assessors have submitted “what if” questions both in terms of additional work load and additional costs should the initiative pass, but to date, DOR has been unable to provide answers. Mr. Baenen provided a few ideas of some of the hardships placed on his office locally should the initiative pass. There will be a substantial impact on the Treasurer’s Office as well.

UNFUNDED MANDATES

Mr. Baenen serves on a committee which will make a recommendation to the Legislature regarding unfunded mandates and how that issue can be addressed. Referendum 47 and initiatives 695 and 722 are indirect unfunded mandates. New shoreline regulations have some huge related costs to counties.

COURTHOUSE FACILITIES AND REMODEL

As of last week, the architect, Bryan Young, seems to have “nailed” everything nailed down and most everyone seems at least reasonably satisfied. The proposal now is that Juvenile Court services will go in the Courthouse; all alternatives are being reviewed. Mr. Young has asked that everyone realize there is a plan in place and asked that everyone please give it a chance to come to fruition and see how it works out. One example brought up of something that could be considered while construction is under way was tele-commuting for employees. The County has no official policy on tele-commuting and is something that should be addressed. Everyone agreed this topic be brought up at the next Department Head meeting.

Meeting adjourned 11:55 a.m. Next Scheduled Roundtable: September 25th @ 11:30 a.m.

VOUCHERS AND PAYMENT OF BILLS

The following vouchers/warrants were approved for payment by unanimous motion of the Board: **Voucher (War.) #**
 81438 – 81571.....\$ 138,376.91
Veterans Assistance Fund: #V2K-9\$ 562.29.

2% LODGING TAX ADVISORY COMMITTEE APPOINTMENT

By unanimous motion, the Board appointed Dr. James Cox, Freeland, to serve as a member on the 2% Lodging Tax Advisory Committee for Island County, refilling the position vacated by Lynn Tippery representing organizations eligible to receive these funds [as recommended by the Freeland Chamber of Commerce, Kevin Engstrom appointed to serve as alternate].

SEPTEMBER STAFF SESSION SCHEDULE

The September Staff Session scheduled was approved by unanimous motion of the Board, outlining staff sessions to be held on September 6 and 20, beginning at 9:00 a.m., held in the Courthouse Annex Basement hearing room, Coupeville, Wa.

HIRING REQUESTS & PERSONNEL ACTIONS

By unanimous motion, the Board approved the following Personnel Action Authorizations:

PAA #	Description/Position	Action	Eff. Date
093/00	Corrections Officer #4015.18	Replacement	8/28/00
094/00	Acct. Adm. Asst-Temp #2214.00	Replacement	8-28-00
095/00	Index Deputy .5 fte #208.01	Increase Hours	8-28-00*
096/00	Index Deputy .5 fte #208.02	Increase Hours	8-28-00*
097/00	Dep. Aud/Audit- Temp 30 days	New Position	8-28-00
099/00	Data Entry Asst.- Temp 250 hrs.	New Position	8-28-00

* increase from 20 to 29 hours per week for this year only

INTERAGENCY AGREEMENT BETWEEN WASHINGTON STATE MILITARY DEPARTMENT AND ISLAND COUNTY FOR E911 OPERATIONS CONTRACT #EM19042 AMENDMENT A

By unanimous motion, the Board approved and signed Interagency Agreement between Washington State Military Department and Island County for E911 Operations Contract #EM19042 Amendment A, shifting dollars within categories [no change to dollar amount of contract, \$272,499.00].

JUVENILE COURT SERVICES CONTRACTS APPROVED

Having had an opportunity to discuss and review various Juvenile Court Services contracts with the Board during a recent staff session, Mike Merringer, Juvenile Court Services Director, presented two contracts now ready for the Board's approval and signature. By unanimous motion, the Board approved the following contracts:

- Client Services Contract, OAC and Island County Juvenile & Family Court Services, CSC-2001-003, \$10,000, 7/1/00 – 6/3/01.
- Interlocal Agreement, State of Washington DSHS and Island County #9963-41902, Amendment No. 2, (decrease CDDA \$9,000), 1/1/2000 – 6/30/01. This Agreement includes Consolidated Juvenile Services projects (CJS) At-Risk, Special Sex Offender Disposition Alternative (SSODA), Community Juvenile Accountability Act (CJAA), and Chemical Dependency Disposition Alternative (CDDA).

STORMWATER MITIGATION AGREEMENT - WHIDBEY DEVELOPMENT, LLC; LOT 24, HOLMES HARBOR GOLF & YACHT CLUB, DIVISION NO. 1 BLOCK 2.

On presentation by Lew Legat, County Engineer, the Board by unanimous motion, approved Stormwater Mitigation Agreement with Whidbey Development, LLC, for Lot 24, Holmes Harbor Golf & Yacht Club, Division #1, Block 2 in compliance with ICC 17.03, Appendix A.

CONTRACT/PERFORMANCE BOND – ISLAND ASPHALT; BEVERLY BEACH CULVERT REPAIR; CRP 00-07, WO #280

Following bid award made on August 7, 2000 [bid opening July 25, 2000] the Board by unanimous motion as recommended by the County Engineer, accepted and approved Contract and Performance Bond from Island Asphalt associated with the Beverly Beach Culvert Repair under CRP 00-07, Work Order #280, contract in the amount of \$49,690.00.

SUPPLEMENTAL AGREEMENT NO. 4 – TO CONSULTANT AGREEMENT #PW-992045; CNJA ARCHITECTS; CAMANO ANNEX

Gary Hess, Construction Engineer, presented Supplemental Agreement No. 4 to Consultant Agreement #PW-992045, CNJA Architects related to the Camano Annex. Following staff session discussion about those items referred to as “show stoppers” and making sure those certain items were okay before authorizing payment, Gary Hess, Construction Engineer, sent a memo to Community Development regarding items of review and was waiting to hear back on those issues. He agreed to let the Board know as soon as a response is received.

Supplemental Agreement No. 4 to Consultant Agreement #PW-992045, CNJA Architects, was approved by unanimous motion of the Board, amending Section II-Scope of Work; Section IV-Time for Beginning & Completion; and Section V- Payment.

FINAL PRD 002/92- PENN COVE ASSOCIATES-SHORES AT PENN COVE PLANNED RESIDENTIAL DEVELOPMENT (PRD)

The Board received a Memorandum from Debra Little dated August 25, 2000, advising that the preliminary PRD application was granted conditional preliminary approval by the Island County Hearing Examiner on December 4, 1997, and confirmed that on review by staff of the application for final PRD approval, all conditions of preliminary approval had been met. PRD 002/92 by Penn Cove Associates is for Shores at Penn Cove Planned Residential Development (PRD) consisting of 18 small single family lots and 0.43 acres of open space, on Assessor's Parcel #S7730-00-0000A-0, in the southwest part of Section 22, Township 32 North, Range 1 East, W.M., on Central Whidbey.

Two representatives of Penn Cove Associates were present in the audience at the time of consideration.

By unanimous motion, the Board approved and signed Final PRD 002.92 Shores at Penn Cove PRD.

**Before the Board of Island County Commissioners
of Island County, Washington**

Application: Final Planned Residential Development, PRD 002/92

Date of Preliminary Approval: December 4, 1997

Name and Address of Applicant:

Applicant:

Gordon Capretto
2024 NW Blue Ridge Drive
Seattle, WA 98177

Owner:

Penn Cove Associates
2366 Eastlake East, Suite 428
Seattle, WA 98102

Requesting The Following: Final approval of the Shores at Penn Cove PRD, consisting of 18 residential lots together with an approximately 0.43 acre of open space on a total of approximately 5.68 acres.

Upon The Following Property: The site is located at the corner of Park Avenue and Scenic Heights Road, in the southwest part of Section 22, Township 32 North, Range 1 East, W.M., on Central Whidbey Island, Island County. Assessor's Parcel #S7730-00-0000A-0.

This Final Planned Residential Development conforms to (1) the requirements of the PRD Ordinance as established by ICC Chapter 16.17 that was in effect prior to December 1, 1998 and (2) the conditions of preliminary approval established by the Hearing Examiner on December 4, 1997.

Island County Staff Recommendation: Approval subject to continued conformance with the conditions of approval listed in the Hearing Examiner's decision of December 4, 1997.

BOARD OF ISLAND COUNTY COMMISSIONER DECISION:

APPROVED AND ADOPTED this 28th day of August, 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 00-511

HEARING HELD: FRANCHISE #318, OFF-SITE DRAINFIELD-SEWER COLLECTION LINE, HARBOR VIEW DRIVE AND MARDELL DRIVE IN THE PLAT OF SARATOGA BEACH, DIV. #1

At 2:20 p.m., as scheduled and advertised, a public hearing was held for the purpose of considering Franchise #318 by Ann Steel for off-site drainfield sewer collection line to be placed in County roads Harbor View Drive and Mardell Drive in the Plat of Saratoga Beach, Division #1, located in Section 14, Township 30 North, Range 2 East. Having reviewed the application for franchise, Mr. Legat reported that all departments requested to comment had responded with no objection to the proposal; therefore, based on that information, recommended the Board grant the franchise.

James Angst, 3541 S. Passage Way, Langley, Trustee, Saratoga Beach Homeowners Association, commented that the Association had not seen the plans and had some concern about the water mains on both of those roads and was interested to know if the project could have any impact on those water lines.

Mr. Legat confirmed there were requirements associated with placing sewer lines when located with water lines, i.e., normal separation of lines is 10"; sewer lines need to be at least 12" below and divided with a sleeve when crossing the water line. Item No. 19 in the franchise itself states:

The holder must comply with the recommended Standards for Water Works (1997 Edition, Great Lakes – Upper Mississippi River Board of State Sanitary Engineers); the Criteria for Sewage Works Design (State of Washington, Department of Ecology, December 1998); and/or other requirements of the Island County Health Department.

Conditions can also be placed on the actual Permit to work in County Road Right of way.

By unanimous motion, the Board approved Franchise 318 by Ann Steel for off-site drainfield sewer collection line to be placed in County Roads Harbor View Drive and Mardell Drive in the Plat of Saratoga Beach, Division #1, located in Section 14, Township 30 North, Range 2 East, acknowledging that this franchise requires conditions associated with sewer and water line placement, and that Permit to Work in County Right of Way contain a condition stating that prior to completion of the project that owner's engineer provide a statement of work completion per submitted plans and specifications.

STP AND RAP FUNDING APPLICATIONS

Mr. Legat reviewed Transportation Funding [STP and RAP] applications with a funding submittal deadline this Friday:

STP Funds

- Extension of Rhodie Trail – Highway 20
- Additional funding – Cedars Trail
- West Beach Road Wayside

RAP Funds: Camano Hill Road; Swantown Road; Frostad Road; Monroe Landing

In light of the application submittal deadline, Mr. Legat asked that he be allowed to review the projects individually with each member of the Board this week, and that the Board authorize the Chairman to sign the grant applications after that review has been done.

By unanimous motion, the Board authorized the Chairman's signature on the grant applications as outlined by the County Engineer after each Commissioner has reviewed applications.

HEARING HELD: - OPS 749/00 KERRY & MARIA LEAF, OPEN SPACE APPLICATION

A Public Hearing was held at 2:45 p.m. to consider Open Space Application #OPS 749/00 by Kerry & Maria Leaf, requesting 16 of 20 acres be given a Timber Land Current Use Classification, located on Parcel#R23330-329-3600 west of Taylor Road, North Whidbey.

Phil Bakke, Planning Director, referred to Staff Report dated July 28, 2000, recommending approval with the following conditions:

1. All future forest practices activity on the subject property shall be consistent with the submitted Forest Management Plan
2. All future forest practices activity on the subject property shall be consistent with Washington Forest Practices Regulations, RCW 76.09 and WAC 222, and all other applicable County, State and Federal Regulations.

There were no comments from members of the public either for or against OPS 749/00.

By unanimous motion, the Board approved Open Space Application #OPS 749/00 by Kerry & Maria Leaf, requesting 16 of 20 acres be given a Timber Land Current Use Classification, located on Parcel#R23330-329-3600, correcting misspelled word asset on page one of the form REV 64-0022-1 above and to the left of the checked box for Timberland; and correct staff report page 4 of 5 item h to read "There is no evidence to indicate that applicants have failed to comply . . ."

HEARING HELD; ORDINANCE #C-78-00, PLG-022-00, AMENDING CHAPTER 17.02 ICC TO COMPLY WITH THE ORDER OF THE WESTERN WASHINGTON GROWTH MANAGEMENT HEARING BOARD RELATING TO CERTAIN PROVISIONS OF CRITICAL AREA REGULATIONS

A Public Hearing was held as scheduled and advertised to consider Ordinance #C-78-00, PLG-022-00, Amending Chapter 17.02 ICC to Comply with the Order of the Western Washington Growth Management Hearing Board Relating to Certain Provisions of the County's Critical Area Regulations, involving nine areas warranting special identification as Habitats of Local Importance in Island County [as introduced and set for hearing 8/7/00 [GMA record #5873]. At the time of hearing six members of the public were present. County staff represented by Phil Bakke and Jeff Tate.

Hand-out:

Ordinance #C-78-00 [PLG-022-00] revised [GMA doc. #5933]

Mr. Tate explained with regard to revised Ordinance #C-78-00 handed out today that on August 7 when the ordinance was introduced and set for hearing this date and time the exact boundaries were not known of the Habitats of Local Importance proposed as a part of the ordinance. And after review by the Deputy Prosecuting Attorney misspellings were corrected and portions of code not being amended that had been incorrectly included were taken out. This offers no substantive difference to that introduced August 7 under record #5873. Maps now [as posted on the wall during the hearing GMA doc. #5932] follow parcel lines. Photo copies of those maps were attached to Revised Ordinance #C-78-00. At this point, however, the maps do not include location names.

This is an amendment to Chapter 17.02 , Island County Critical Areas Ordinance, identification of nine Habitats of Local Importance as requested by the Whidbey Audubon Society [two now included together Deer Lake/Useless Bay] :

1. Deer Lake and Useless Bay
2. Newman Road Lake just east of Freeland
3. Cultus Bay Flats
4. Bos Lake [aka Swantown Lake]
5. Hastie Lake
6. Penn Cove
7. Crockett Lake
8. Whidbey Island Game Farm [now Au Sable Institute]

Commission Thorn observed there were no areas identified on Camano but presumed that was because Camano Island is serviced by Snohomish Audubon as opposed to Whidbey Island Audubon.

Mr. Tate referred to Exhibit A as the substance of amendment, noting as follows:

Exhibit A Page 1 No change to the Comprehensive Plan, but for the benefit of providing what a fish and wildlife habitat conservation area is and what the designation criteria are.

Exhibit A Page 2 17.02.110.C.7, all new language:

7. Protection Standards. Audubon Habitats of Local Importance. Property owners within these areas are required to comply with Chapter 17.02 ICC, the Island County Critical Area Ordinance; Chapter 17.03 ICC, the Island County Zoning Ordinance; Chapter 11.02 ICC, the Island County Clearing and Grading Ordinance; the Island County Shoreline Master Program; and all other applicable Federal, State and County regulations.

Exhibit A Page 3 List of protected species [no change]

Exhibit A Page 4 List of Habitats of Local Importance with footnote showing the map adopted as part of this ordinance.

Beyond identification of these areas on the Critical Area maps and amended language in 17.02.110.C.7, no additional regulatory burden is placed on property owners. The Ordinance highlights those areas, indicates they are special and should be treated as such and notifies people of the existence of the areas and the sensitivity of these areas and where they are located. Public awareness and education is the only way to achieve successful implementation of the critical areas ordinance. The boundaries are slightly larger than where the critical areas are located in most cases and when staff receives an application, certain boxes on the application are checked and triggers to point to this area, provides impetus to go out and look at the site. As an example, Mr. Tate provided samples of some applications and the request for comment form used by staff when distributing applications to other departments for review and comment [GMA doc. #5937].

Mr. Tate commented also that the designation provides a mechanism for placing a mitigating condition for a major

project that requires SEPA review, i.e. mechanism for either the hearing examiner or staff to recommend that a mitigating condition be placed on a project if it would impact some habitat. The amendment makes it clear that adherence to existing regulations is mandatory. The purpose of the amendment is not to link the identification of these habitats to specified protected or unprotected species thus requiring a Biological Site Assessment (BSA), rather to call attention to these areas to ensure thorough environmental review.

If a development is proposed in one of these areas and a protected species is present, a BSA is already required. If a development is proposed to alter a critical area or its buffer in one of these areas, a BSA is already required. If a development is proposed in what is identified on the Heritage Lands map as Keystone, Grasser's Hill or Ebey's Landing, which partially fall into some of these areas, a BSA and Habit Management Plan [HMP] is already required. If a development is proposed in any other fish and wildlife habitat conservation area that falls within these sites, a BSA is already required. If a development is proposed in those lands within these Habitats of Local Importance that are not currently encumbered by a critical area already, a BSA or HMP can be required on larger projects through SEPA. Additionally, the Planning Director has discretionary authority within current Critical Areas Ordinance to increase buffers if determined necessary to mitigate the project. Within BSA requirements listed out are scenarios under existing regulations BSAs would be required. BSAs are required to address all fish and wildlife habitat conservations within the area; the BSA has to address any sort of fish and wildlife habitat conservation area.

ICC 17.02.110.C.2 states that BSAs shall show all fish and wildlife habitat conservation areas; shall include descriptions of all fish and wildlife habitat conservation areas; shall include an analysis of impacts to the protected species or habitats, including a discussion of impacts to fish and wildlife habitat conservation areas and if there is an adverse impact to any of those protected species or habitats are likely to occur, a mitigation plan shall be required, and the recommendations of the BSA incorporated into the development project. While this amendment does not require any extra burden on property owners the regulatory framework is already fairly stringent and already requires these to be addressed.

PUBLIC INPUT

Steve Erickson, WEAN, Langley, had several questions of Mr. Tate, asked and responded to as follows:

What would trigger a requirement for a BSA or HMP within these areas?

Response: The presence of critical areas that require alteration or modification to a buffer or critical area - anything where there is a protected species listed. Any other fish and wildlife habitat conservation area already within the area.

If someone wants to build a single family residence more than 100' from a Category A wetland or 25' or 50' from a Category B wetland, then there is no requirement?

Response: There is no requirement for BSA or HMP if the proposal does not infringe on any of those critical areas listed and also if SEPA is not required. He agreed there was no requirement for what is known as Whidbey Island Game Farm.

Whether under SEPA if Fish and Wildlife Habitat Conservation areas are considered environmentally sensitive areas therefore removing various categorical exemptions?

Response: Not for fish and wildlife habitat.

Development in the vicinity does not necessarily trigger SEPA?

Response: Correct.

Under ICC since 1998 an unregulated subdivision or short plat or long plat could occur that created parcels that would require road building or road enlargement through a critical area or its buffer to gain access to that

parcel, is that changed in any way by this ordinance?

Response: Did not think that changed with the ordinance.

Are there any other kind of layers of protection on some of these areas, such as banning jet skis?

Response: There are no additional regulatory requirements. This does not add any more regulatory requirements rather recognizes the need to comply with those regulations already in existence.

Mr. Erickson submitted into the record a publication from the State of Washington, Department of Wildlife, Final Draft, February 12, 1992: Buffer Needs of Wetland Wildlife, Habitat Management Division [GMA #5936] highlighting the following from what he further described is from a publication from Washington Department of Fish and Wildlife, this was their final draft Buffer Needs of Wetland Wildlife issued February 12th 1992, submitted to the County years' go discussing various things such as importance of buffers, disturbance and loss of wildlife functions, that Department's advice as of eight years' ago and he was not aware that that had changed substantially in any way:

Page 1: Under "Disturbance and Loss of Wildlife Function: the following sentence:

"A person approaching heron or a flock of waterfowl can agitate and flush them even at distances greater than 200 feet."

Page 3: Quotes under "Summary":

To retain wetland dependent wildlife in important wildlife areas, buffers need to retain plant structure for a minimum of 200-300 feet beyond the wetland. This is especially the case where open water is a component of the wetland or where the wetland has heavy use by migratory birds or provides feeding for heron."

"In western Washington wetlands with important wildlife functions should have 300' upland buffers for high impact (urban) land uses and 200' upland buffers for low impact (rural) land uses."

Part 1 Field Study, under "Summary":

"The most important finding in this study was that as human activity around a site increased, the number of birds utilizing the site decreased."

Therefore, it appeared to Mr. Erickson that the proposal was a "feel-good line-drawing on map" exercise providing no additional protection to these areas or wildlife resources within them. He pointed out that GMA's critical areas protection requirements have two phases, the first designation; the second, protection. If these are important enough wildlife areas to designate, then the County needs to adopt protective regulations that go beyond the existing layers of protection in place, i.e. for those that are Category A wetlands 100' buffers are not necessarily adequate; allowing other impacts not yet a problem but would be good for the County to take care of in advance, such as jet skis in terms of impacts to wildlife. He recommended that in these areas the County:

- provision in the code that allows creation of parcels that require access through a wetland a wetland or buffer or through a critical area or its buffer be deleted at least for these areas although he believes it should be deleted for the entire county;
- ban jet skiing in these areas, and also for all the marine fish and wildlife habitat conservation areas along coast;

- buffers on the wetlands themselves should be increased to 200' ;
- Smith Prairie and the Au Sauble land referred to as Whidbey Island Game Farm, he is less concerned about since he is aware that Au Sable is in the process of developing a long range conservation plan ;
- various coastal wetlands and ponds he is concerned about that this proposal does not protect.

Commissioner Thorn called attention to a personal experience of the last four months associated with some exceedingly low tides. He lives on low bank waterfront on the west side of Camano [Camano City area] and there are some five to seven hundred feet of open shoreline that at low tide is very shallow rocky bottom for the most part, pretty well disturbed for most of the year. During those low tides there were at peak probably somewhere around 90 to 100 people on the beach out there doing various things, including walking through the water looking for crab in eelgrass beds, etc. In spite of all those crowds it was a surprise to him to see during those low tides each and every time that there were eagles that working there and a pair of heron who come and go from that cove daily and nightly, and were out there with the people. The heron would allow people about as close as from Commissioner Thorn to Mr. Erickson standing at the podium. The eagles would allow someone about as close as from Commissioner Thorn to the gentlemen in the back row of seating in the hearing room before taking off and when they did they simply moved over a little bit and did not leave the area, a demonstration of the adaptability of both of those species to some human interference without going into a complete panic and leaving the area and never coming back.

Mr. Erickson suggested that if anything, that would imply what needs to happen is more detailed studies for each area to determine the effect. He reiterated from the summary on the last page of his submittal, a field study page 39: The most important finding in this study was that as human activity around a site increased, the number of birds utilizing the site decreased.”.

In direct contradiction to that, Commissioner Thorn pointed out that there is a large heronry on the Mercer Slough immediately adjacent to I-405 in downtown Bellevue immediately adjacent to a business park with huge paved parking areas. While he would like to see as substantial separation as is reasonable, he saw some debate about what is reasonable; two or three hundred feet may or may not be, and it may be quite variable from site to site.

Mr. Erickson advised that was why he was interested in knowing the extent to which any kind of more detailed site specific studies would be conducted on these sites, which he believed that other than a response to a development proposal, there would not be which tended to be late in the process.

Commissioner Thorn observed that today was not a debate about the Critical Areas Ordinance per se', rather looking at identification of areas to highlight as being more sensitive than other parts of the county.

Mr. Erickson stated that what is included now he finds to be inadequate based on, for example, the recommendations of the Department of Fish and Wildlife. He noted again GMA had two phases for critical areas: first designate, then protect.

Tom Campbell, President, Whidbey Audubon Society, on behalf of the over four hundred family members of Whidbey Audubon Society, congratulated staff members who worked on this project and the Board who were about to approve it. Recognition of the importance of these areas for wildlife he thought was commendable and acknowledged in the long term the designation will help to ensure citizens and visitors alike could continue to enjoy the unique birds that depend upon these sites. He stressed that the economic importance of visiting birders could not be ignored and appreciated efforts of the Board in passing the ordinance.

Gary Wood, representing the Whidbey Audubon Society, reviewed a number of points and through a series of questions to Jeff Tate, the following points were confirmed by Mr. Tate:

There are among these nine areas some 5,278 ½ acres designated.

Looking at the maps done, the dark-shaded area on map number one, the portion just west and just east of Deer Lagoon is existing wetland.

The line for the boundary of the habitat of local importance [HOLI] does not just follow along existing previously identified wetland in most of the area. In most of the areas it's set back away from the existing previously marked and identified wetlands.

Going through the maps you can see that in some of the areas, for example the second map, a substantial area that is newly marked and newly identified around the Newman Lake for example, and that is not limited to the specific wetland that used to be identified on the maps.

If someone is located in the white-colored area of HOLIs, if owning property up in the corner not previously marked or identified as a wetland or marsh or protected area or critical area, if applying for a permit would receive notice that he/she would have to be identified as applying within a HOLI area and that will trigger then a HOLI area and trigger notification by the County of the applicability of certain other existing laws identified in the statute as item #7. The owner will get a notice he/she would not have gotten otherwise if the property is inside the HOLI area but not in the wetlands. Typically once the property owner makes application staff would let them know what the applicable regulations were [or beforehand when they called to inquire].

Going through the ordinance as proposed under Exhibit A 17.02.110 Overlay Zones, the underlined portion of paragraph #7 is all new language added today that was not in the law before.

If someone lives in one of those or applies for a permit in one of those newly designated HOLI areas and is located in the white-colored portion, would receive to comply with 17.02 of the Code, the Critical Areas Ordinance and 17.03 of the Zoning Ordinance, 11.02 of the Clearing and Grading Ordinance and the Shoreline Master Program, etc.

The property owner would not have gotten that complete notification previously, probably only in bits and pieces. All of those laws applied to that area before, but this lets people know - flags an application, educates people that all of these rules and regulations apply.

A list of the sizes of the particular areas in acreage can be supplied for the record. These range from 2,010 acres designated as HOLI land at Crockett Lake down to the smallest 294 acres at Swantown.

Mr. Tate personally cooperated with Audubon representatives Tom Campbell and Gary Wood when drawing the lines, all worked together in drawing the lines. There was give and take and compromise and the process resulted in the designation of these 5,000 + acres.

These regulations do not ban jet skis. There has been no ski problem previously in Swantown Lake. The ordinance specifically does what it purports to do-identifies and designates the areas that Tom Campbell nominated to be designated as HOLI lands two years' ago.

You do not have habitats without something that lives there; habitat means home or someone using it as is the case with all of these nine areas. All of that has not yet been identified, but that would be a worthwhile project for someone to do if they had the time, money or grant.

As Mr. Wood noted, that was the next step. He expressed appreciation for the Board's attention to this matter. He did not look at this as the end, rather a part of a process in which the County is participating with Audubon in the first step, i.e. designating the areas.

As far as Commissioner Thorn's question whether or not Audubon had a problem with removing the word Audubon from paragraph #7 and identify these more generically as habitats of local importance, Mr. Wood and Mr. Campbell

indicated they had no problem.

Mr. Tate referred to several statements made by Mr. Erickson with reference to the paper from Department of Wildlife 1992 in order to clarify the record. The highlight on page 1 says a person approaching heron or a flock of waterfowl can agitate and flush them even at distances greater than 200 feet, implying protection needs to be added for heron at least 200 feet or out. When the County does biological site assessments around heron rookeries the requirement is that the assessment be done for any residential use within 300 feet of a heron rookery for residential uses and 1,000 feet for non residential uses. The highlight on page 3 making reference to the 200' upland buffer for low impact rural land uses, there is a 100' buffer for Category A wetlands, an uncontested provision of the Island County Critical Areas Ordinance and upheld by the Growth Management Hearings Board.

Commissioner Shelton observed this ordinance did several things: identifies particular areas in Island County that have a greater degree of importance for wildlife, deemed to be important in this County; at the same time, recognizes that all of this property is in the ownership of someone and the County tried in this ordinance to balance those goals and he thought that had been accomplished and was extremely important.

Commissioner Thorn's last observation was that this demonstrates what can be done by working together on a problem - community groups and county groups.

Replying to a question from Chairman McDowell, Tom Campbell and Gary Wood confirmed this ordinance satisfied their concerns brought before the Board and Hearings Board. Mr. Campbell further stated this was a very encouraging first step. Mr. Wood stated that Audubon was withdrawing objections.

Commissioner Shelton moved approval of Ordinance C-78-00 PLG-022-00 in the matter of amending chapter 17.02 of the Island County Code to comply with the order of the Western Washington Growth Management Hearings Board relating to certain provisions of the County's Critical Area Regulations, and further, to be added to each map is the calculated and the word Audubon in paragraph 7 be removed along with the Audubon reference in the footnote. Motion, seconded by Commissioner Thorn, carried unanimously. *Adopted C-78-00 [GMA record #5934] [Exhibit A and Maps are on file with the Clerk of the Board and GMA Record]*

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BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF ISLAND COUNTY, WASHINGTON

IN THE MATTER OF AMENDING CHAPTER 17.02 ICC))))))
TO COMPLY WITH THE ORDER OF THE WESTERN ORDINANCE C-78-00
WASHINGTON GROWTH MANAGEMENT HEARINGS PLG-022-00
BOARD RELATING TO CERTAIN PROVISIONS OF
THE COUNTY'S CRITICAL AREA REGULATIONS

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, during the update and adoption of the Comprehensive Plan, Whidbey Audubon Society notified the County of nine areas located on Whidbey Island that are especially sensitive and warrant identification; and

WHEREAS, while these nine areas are protected through a number of existing regulations set forth in the Critical Areas Ordinance, Zoning Ordinance, Clearing and Grading Ordinance and Shoreline Master Program, the identified nine areas warrant special identification as Habitats of Local Importance pursuant to ICC 17.02.110 (C) 1 (h); and

WHEREAS, Whidbey Audubon Society and Island County have agreed upon the geographic location of these areas and have agreed that identification of these areas on the Critical Areas maps will aid in the application of

existing regulations within the identified areas; and

WHEREAS, in 1998, the County completed environmental review under Chapter 43.21C RCW, SEPA, on its Comp Plan and Development Regulations including Critical Area Regulations; and

WHEREAS, pursuant to WAC 197-11-600, the County SEPA official has determined that the proposed changes to Chapter 17.02 ICC relating to Critical Area Regulations 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, the Board of Island County Commissioners hereby adopts the proposed amendments to Chapter 17.02 ICC, attached hereto as Exhibit A, and the proposed boundaries of the nine identified areas, attached hereto as Exhibit B. Material stricken through is deleted and material underlined is added.

Reviewed this 7th day of August, 2000 and set for public hearing at 2:45 p.m. on the 28th day of August, 2000.

**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 00-465

APPROVED AND ADOPTED this 28th day of August, 2000.

**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
& Island County Code Reviser

**HEARING HELD: ORDINANCE #C-80-00, PLG-023-00, CONCERNING TECHNICAL AMENDMENTS
TO THE ISLAND COUNTY COMPREHENSIVE PLAN FUTURE
LAND USE PLAN MAP AND THE ISLAND COUNTY ZONING ATLAS**

A Public Hearing scheduled for 3:00 p.m., as advertised, was held on Ordinance #C-80-00, PLG-023-00, Concerning Technical Amendments to the Island County Comprehensive Plan Future Land Use Plan Map and the Island County Zoning Atlas. No members of the public were present at the time of hearing, other than Mary K. Doody, Coupeville Examiner. Staff represented by Phil Bakke and Jeff Tate.

Mr. Tate explained this to be a technical correction for three pieces of property proposed to the Oak Harbor Urban Growth Area. Exhibit A shows a revised zoning ordinance map and Exhibit B shows the revised Comprehensive Plan future land use plan map. The difference is that in the right hand corner on the zoning atlas map OH-HSC was inadvertently zoned OH-R. The future land use plan map for Oak Harbor is consistent with the Highway Service Commercial.

By unanimous motion, the Board approved Ordinance #C-80-00, PLG-023-00, Concerning Technical Amendments to the Island County Comprehensive Plan Future Land Use Plan Map and the Island County Zoning Atlas. *Adopted Ordinance C-80-00 GMA Record #5938; Exhibits on file with the Clerk of the Board and in the GMA record]*

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

IN THE MATTER OF AN ORDINANCE CONCERNING)
TECHNICAL AMENDMENTS TO THE ISLAND COUNTY)
COMPREHENSIVE PLAN FUTURE LAND USE PLAN) ORDINANCE C-80-00
MAP AND THE ISLAND COUNTY ZONING ATLAS) PLG-023-00

WHEREAS, on September 28 and 29, 1998, the Board adopted the County's GMA Comprehensive Plan and Development Regulations; and

WHEREAS, by Ordinance C-123-98, the Board also adopted Chapter 17.03 ICC as Island County's official Zoning Code to implement its GMA Comprehensive Plan with the Zoning Atlas as the Official Zoning Map of Island County; and

WHEREAS, by Ordinance C-122-99, the Board amended the Island County Comprehensive Plan, Chapter 17.03 Island County Zoning Code and the Island County Zoning Atlas for the Oak Harbor Urban Growth Area; and

WHEREAS, the Oak Harbor Comprehensive Future Land Use Element identifies parcels R13327-502-2520, R13327-492-2320 and R-3327-466-2340 as Community Commercial; and

WHEREAS, the Island County Comprehensive Plan Future Land Use Plan Map and the Island County Zoning Atlas are not consistent with the Oak Harbor land use designation and were inadvertently designated Oak Harbor – Rural; and

WHEREAS, certain technical amendments to the Future Land Use Plan Map and the Zoning Atlas have been identified to ensure that the zoning designations are consistent with the County Wide Planning Policies.

NOW, THEREFORE, IT IS HEREBY ORDAINED that the Board of Island County Commissioners hereby adopts certain technical amendments attached hereto as Exhibit A to the Island County Zoning Atlas (Exhibit C to Ordinance C-123-98) and the Island County Future Land Use Plan Map, attached hereby as Exhibit B.

Reviewed this 7th day of August, 2000 and set for public hearing at 3:00 p.m. on the 28th day of August, 2000.

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

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

ATTEST: Margaret Rosenkranz
Clerk of the Board BICC 00-467

APPROVED AND ADOPTED this 28th day of August, 2000.

**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

RESOLUTION #C-85 -00 [PLG-027-00] AMENDING CAMANO RAIDS TO DECREASE THE TOTAL AREA AND NUMBER OF PARCELS(CORRECTION OF C-83-00)

Resolution #C-85-00 [PLG-027-00] Amending Camano RAIDS to decrease the total area and number of parcels to correct Resolution #C-83-00 adopted on August 21, 2000, was presented to the Board by Phil Bakke. As he explained, Resolution #C-83-00 and submitted Planning Commission summary findings and conclusions referenced inadvertently to Livingston Bay Heights rather than Livingston Bay. He confirmed the record shows that all staff analysis, reports, Planning Commission review, Board of County Commissioner review, along with Planning Department review, documentation and maps on the wall all referred to Livingston Bay and not Livingston Bay Heights. Attached to the resolution, Mr. Bakke provided a copy of a memorandum from Pat Churchill, Chairman, Planning Commission, reinforcing this was a technical error and that all of the documentation and hearing notices referred to Livingston Bay and not the Livingston Bay Heights RAID.

By unanimous motion, the Board adopted Resolution #C-85-00 [PLG-027-00] Amending Camano RAIDS to decrease the total area and number of parcels to correct Resolution #C-83-00 adopted on August 21, 2000.

Commissioner Thorn clarified that he supported this change because it is appropriate but it in no way negated the nay vote he gave on the original resolution.

[adopted Resolution C-85-00 GMA doc. #5939]

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

IN THE MATTER OF AMENDING)
RESOLUTION C-83-00 TO REPLACE ALL) RESOLUTION C-85-00
REFERENCES TO LIVINGSTON BAY) PLG-027-00
HEIGHTS WITH LIVINGSTON BAY)

WHEREAS, since the adoption of C-83-00 on 8-21-00 it has been discovered that the Planning Commission and Board of County Commissioners inadvertently referred to Livingston Bay Heights as one of the four RAIDS up for review in CPA 719/00; and

WHEREAS, the application and all review by the Planning Department, Planning Commission and Board of County Commissioners was based on the Livingston Bay RAID; and.

WHEREAS, PLG-027-00 is intended to correct the inadvertent referral to Livingston Bay Heights and replace the reference with Livingston Bay; **NOW THEREFORE,**

IT IS HEREBY RESOLVED that the Board of Island County Commissioners hereby modifies Resolution C-83-00 to replace all references to Livingston Bay Heights with Livingston Bay.

ADOPTED this 28th day of August, 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 00-514

There being no further business to come before the Board at this time, the meeting adjourned at 3:50 p.m. County Offices will be closed on Monday September 4, 2000 in observance of Labor Day. The next meeting of the Board of Island County Commissioners will be Monday, 11 September 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