

**ISLAND COUNTY
PLANNING COMMISSION SUMMARY MINUTES**

OF

REGULAR MEETING

June 28, 2021 at 2:00 PM

– VIDEO ONLY via STARLEAF –

CALL TO ORDER:

(Approximate recording timestamp: 00:00:00/00:42:44)

Meeting was called to order at 2:01 p.m. by Chair Hand.

ROLL CALL:

(Approximate recording timestamp: 00:00:15/00:42:44)

Present:

District 1 – Commissioners Margaret Andersen, and Kristi Lovelady
District 2 – Commissioners Darin Hand (Chair), and Steve Bristow
District 3 – Commissioners Tracy Gilroy, and Steve Schwalbe (Vice Chair)

Absent:

District 1 – Commissioner William Criswell
District 2 – Commissioner Joseph Busig
District 3 – Commissioner Beth Munson

Planning & Community Development Staff Present:

Jonathan Lange, Assistant Planning Director; Meredith Penny, Planning Manager;
Shawn Morris, Critical Areas Planner; Jana Raasch, Planning Program Coordinator

APPROVAL OF MINUTES:

(Approximate recording timestamp: 00:01:13/00:42:44)

Chair Hand initiated approval of minutes for the May 24, 2021 Special Session and the June 14, 2021 Regular Meeting.

Regarding the May 24, 2021 minutes, Commissioner Schwalbe asked that “Vice Chair Hand” be changed to “Vice Chair Schwalbe” in the following two places: 1) under agenda item “Topic Specific Public Comment Period – Specific To Island County Shoreline Master Program” and 2) under Adjournment.

Regarding the June 14, 2021 minutes, Commissioner Andersen noted that the request of staff at this meeting to provide the Planning Commissioners with an outline of the flood-plain permitting process was missing. She asked that this be added to these minutes.

Commissioner Lovelady moved to approve both said minutes with noted corrections and additions. Commissioner Schwalbe seconded the motion. Motion passed 5-0-1, with Commissioner Gilroy abstaining.

ITEMS FROM THE PUBLIC– UNRELATED TO TOPICS ON THE AGENDA

(Approximate recording timestamp: 00:03:54/00:42:44)

No public comments were brought forth.

DIRECTOR’S REPORT

(Approximate recording timestamp: 00:05:12/00:42:44)

Assistant Director Jonathan Lange explained the reasoning behind the cancellation of today’s Public Hearing to consider a recommendation to the Board of County Commissioners regarding draft proposed code amendments to Chapters 14.02A, 16.13, 16.19, and 17.03, of Island County Code the Flood Damage Prevention Ordinance and related code sections. The new timeline for this Public Hearing is anticipated to be as follows:

- July 26, 2021: Public Hearing
- August 11, 2021: Work Session with the Board of County Commissioners
- August 26, 2021: Adoption of Ordinance

Lange acknowledged Commissioner Andersen’s amendment to the June 14, 2021 minutes regarding staff being asked to provide an outline of the flood-plain permitting process and stated this will be prepared for the July 26, 2021 meeting.

Commissioner Gilroy inquired as to when the procedures begin to add items to the docket.

Penny explained that applications for Comprehensive Plan amendments are due July 31, 2021. Discussions with the Planning Commission and Board of County Commissioners will begin in the August to September timeframe.

Commissioner Gilroy followed up asking how and when such items like signage in the right-of-way can get on the docket. Penny advised that this should be brought up for discussion when the docket and work plan discussions are held with the Planning Commission in August and September with final approval happening in November. Commissioner Gilroy went on the record stating she will be unable to attend August 2021 Planning Commission meetings.

Workshop

(Approximate recording timestamp: 00:09:05/00:42:44)

Chair Hand commenced the workshop by turning the floor over to Meredith Penny, Planning Manager. Penny introduced Shawn Morris, Critical Areas Planner, to present on Growth Management Hearings Board Case No. 14-2-0009 regarding amendments to the Fish and Wildlife Habitat Conservation Area (FWHCA) regulations of Island County Code Chapter 17.02B and required compliance schedule. Before conceding the floor, Penny reminded the Planning Commission that the Growth Management Hearings Board has imposed an October 2021 deadline to fulfill these amendments.

Shawn Morris, Environmental Planner, presented the specifics of the proposed code changes to address this case.

Designated Habitats and Species of Local Importance

Proposed Change For ICC 17.02B.230 to read:

Island County adopts designation criteria for Native Prairies, Herbaceous Balds and Oak Woodlands outlined in the most current version of the “Priority Habitats and Species List” prepared by the Washington Department of Fish and Wildlife (WDFW). All presently known habitat occurrences are displayed on a Map prepared by The Watershed Company on June 20, 2016.

Remove:

Existing list of prairies, balds, and oak woodlands, and reference the Watershed Company mapping.

Natural Area Preserve (NAP) Buffers

Proposed Change For ICC 17.02B.430.E to read:

The Admiralty Inlet Natural Area Preserve contains rare plants and plant communities, including a rare coastal forest type and is vulnerable to blow down from windstorms. To protect the forest ecological functions and values a 100 foot buffer shall be applied from the southern portion of the forest. For other state natural resource conservation areas and state wildlife areas, buffers shall be based on management recommendations from the agency managing the specific resource.

Andersen asked for clarification on the difference between the 1000 foot buffer for development vs. the above 100 foot buffer. Morris explained that the 1000ft buffer is more of a trigger for a Fish and Wildlife Habitat Conservation Area. It triggers the need for a biological site assessment. The 100 foot buffer designates an area that is designed to protect against blowdown.

Proposed Change For ICC 17.02B.060 - Definitions

Westside prairies are herbaceous, non-forested plant communities that have either dry or saturated soils. Dry prairies contain key grass and sedge species. Wet prairies are primarily found on glacial outwash soils, and also contain grasses, sedges, mosses, and forbs. Westside Prairie greater than 1 acre are considered a priority habitat, and prairies under 1 acre may also be considered a priority when found to be valuable to fish and wildlife based on a biological site assessment.

Oak woodlands means stands of oak or oak/conifer where canopy coverage of the oak component of the stand is 25%, or where total canopy coverage of the stand is less than 25%, but oak accounts for at least 50% of the canopy coverage. Priority oak habitat consists of stands greater than 1 acre in size. Stands less than 1 acre and single oaks may also be considered a priority when found to be valuable to fish and wildlife based on a biological site assessment.

Herbaceous balds occur as patches of grass, forbs, dwarf shrubs and other low-growing vegetation on shallow soils over bedrock, that is commonly fringed by forest. Scattered trees and rock outcrops are often present.

Western Toad Regulations and Court of Appeals

Proposed Change For ICC 17.02B.210

To designate all occurrences as fish and wildlife habitat conservation areas.

Proposed Change For ICC17.02B.400: Standards for BSA Waiver

- The requirement for a BSA may be waived by the Planning Director, if the Planning Director determines that the proposed development would result in only minor impacts. The following activities are defined as minor development for parcels with

an existing, legally-established residential use, provided no clearing of established native forest is required:

- Additions or accessory structures less than 300 square feet; and
- Installation of wildlife compatible perimeter fencing, to include the following design criteria:
 - Bottom wire shall be 16 inches above the ground and the fence shall be constructed of smooth wire or wood and not contain barbs that may injure wildlife; and
- New residential gardening and landscaping, including construction of yard and garden structures such as a greenhouse or tool shed not to exceed 200 square feet in size; and
- Installation of accessory solar energy generation equipment for residential solar energy production.

Commissioner Lovelady asked for clarification whether these standards also refer to accessory structure that might be inhabited. A discussion ensued with Commissioner Lovelady asking for additional work to further refine this verbiage. Morris agreed to make a note to discuss this further.

- For parcels without an existing residential use, the minimum distance between an identified fish and wildlife habitat conservation area and the proposed activity shall be 650-feet to qualify as minor new development:
 - New agricultural activities with implementation of applicable best management practices outlined in Exhibit B to Ordinance C-86-17.
 - The construction of one (1) single family residential development and necessary appurtenances, when the following conditions are met:
 - If the area between the proposed development and the property line closest to the FWHCA is not primarily composed of native plants, the landowner shall enhance with native plants an area equal to proposed impervious surfaces, and plantings shall be protected through a Notice on Title and undergo 5 years of monitoring by Island County, with >80% survival of native plantings at 5 years; and
 - Cleared area and impervious surfaces shall fall under the thresholds for low land use intensity outlined in 17.02B.460.A; and

- All stormwater runoff from proposed impervious surfaces shall be properly controlled prior to reaching the associated habitat by managing stormwater close to the origin; and
- The proposal implements 2 of the 3 low impact design techniques listed here:
 - Permeable surfaces for all of driveway and parking areas;
 - A native plant landscaping plan equal in size to proposed impervious surfaces;
 - Use of bioretention facilities including bioswales, planter boxes, rain catchment barrels, rain gardens, and/or dry wells.

Commissioner Lovelady expressed a parallel concern to her earlier comments with respect to habitation. Morris agreed to look into further refinement of this language for discussion.

Commissioner Andersen inquired as to the frequency of which the Department of Fish and Wildlife evaluates ICC 17.02B.210. Morris stated he is currently waiting for a reply from the Department of Fish and Wildlife on this question. Commissioner Andersen followed up to confirm that Island County’s approach is to at least meet the Department of Fish and Wildlife standards. Morris confirmed this

Commissioner Lovelady asked two questions regarding a written public comment received from Mr. Erickson:

1) Regarding Mr. Erickson’s proposed language changes on page 11 of his public comment with respect to 17.02B.230.C – What is the difference between Washington State Fish and Wildlife Priority Habitat and Species (PHS) Program that’s proposed vs what staff has proposed by a map prepared by The Watershed Company. Commissioner Lovelady wondered if staff might agree that it would be better to use the Fish and Wildlife PHS program.

Morris stated that Fish and Wildlife does not have any prairie, oak woodland, or herbaceous bald areas mapped for Whidbey Island in their PHS data. He also stated they are continuing to look for useful maps on this subject. Commissioner Lovelady suggested using both resources and have the language state something like “information provided by either the WDFW service or by The Watershed Company whichever is more accurate.” Morris agreed.

2) Page 16 and 17 of his letter: Commissioner Lovelady asked for staff's thoughts on Mr. Erickson's observations that we should exempt from prairie regulations, organizations that demonstrate prairie management expertise. Morris shared that this had been discussed and that those groups can prepare their own biological site assessment if they have qualified staff members to prepare them. However, monitoring requirements still need to be kept intact. Morris explained that these organizations sometime propose development such as parking lots and trails that need to be reviewed and create a lot of community interest.

**TOPIC SPECIFIC PUBLIC COMMENT PERIOD –
SPECIFIC TO GROWTH MANAGEMENT HEARINGS BOARD CASE NO. 14.2.0009
REGARDING AMENDMENTS TO THE FISH AND WILDLIFE HABITAT
CONSERVATION AREA (FWHCA) REGULATIONS OF ISLAND COUNTY CODE
CHAPTER 17.02B AND REQUIRED COMPLIANCE SCHEDULE**

(Approximate recording timestamp: 00:34:00/00:42:44)

Chair Hand opened the meeting up for public comments on Growth Management Hearings Board Case No. 14.2.0009 Regarding Amendments To The Fish And Wildlife Habitat Conservation Area (FWHCA) Regulations of Island County Code Chapter 17.02B And Required Compliance Schedule.

Steve Erickson, Whidbey Environmental Action Network, P.O. Box 53, Langley, referenced the letter he send to the Planning Commissioners on the above subject, specifically offering alternate language from what is proposed.

Chair Hand opened the floor to the Planning Commissioners for questions of Mr. Erickson's comments.

(Approximate recording timestamp: 00:38:40/00:42:44)

Commissioner Lovelady asked Morris for a point of clarification on whether the County is looking for to regulate restoration action that doesn't need a County permit or only those that need a county permit. Morris confirmed the County only regulates restoration within critical areas that require a permit - generally regarding construction activity. Commissioner Lovelady suggests staff looks to refine the terminology to create more clarity surrounding, the specifics of what is regulated to avoid over-regulation. She suggested maybe around things that need a public responses and/or required permits. She also suggested a cooperative information exchange between various nonprofit and local government organizations as a cooperative management approach rather than a regulatory approach, which would assist in tracking collective activities as needed.

ADJOURNMENT

(Approximate recording timestamp: 00:41:52/00:42:44)

Chair Hand entertained a motion to adjourn.

Commissioner Schwalbe motioned to adjourn the meeting. Commissioner Gilroy seconded the motion. Motion carried 6-0-0.

Meeting adjourned at approximately 4:42 p.m.

Respectfully submitted by: Jana Raasch