

**ISLAND COUNTY PLANNING COMMISSION  
SUMMARY MINUTES  
COMMISSIONER'S HEARING ROOM, COUPEVILLE, WA  
MONDAY, AUGUST 22, 2016**

	<i>Members Present</i>	<i>Members Absent</i>
<i>District 1</i>		<i>Val Hillers</i>
	<i>Dean Enell – Chair</i>	
	<i>Karen Krug</i>	
<i>District 2</i>	<i>Jeffery Wallin</i>	
	<i>George Saul</i>	
	<i>Darin Hand</i>	
<i>District 3</i>		<i>James Caspers</i>
		<i>Beth Munson – Vice Chair</i>
		<i>Scott Yonkman</i>

Meeting was called to order at 2:00 p.m. by Chair Enell.

**ROLL CALL**

Darin Hand, Jeff Wallin, George Saul, Dean Enell, Karen Krug

**APPROVAL OF MINUTES:** June 30, 2016 and July 11, 2016

*Commissioner Hand moved to approve the minutes, Commissioner Krug seconded, motion carried unanimously.*

Planning and Community Development staff present: Beverly Mesa-Zendt, Assistant Director; Beckye Frey, Long Range Planner, Michelle Pezley, Current Use Planner

**ITEMS FROM THE PUBLIC**

***Susan Bennett, 2191 Goss Ridge Road, Freeland***

Commented on rural character, stating the public hearings and the surveys have all indicated that Island County residents are concerned about the retention of rural character. She feels the concern is also for health and safety, which are two things highly valued and are part of rural character. Health includes clean air, the availability of clean water. Safety would be the ability of walking in your back yard without it falling down into the water.

All of these things can be achieved through the retention of wetlands, which have been addressed well in this update and trees which have not been addressed.

**DIRECTOR'S REPORT**

Assistant Director Beverly Zendt stated the Long Range Planning staff wanted to provide the Planning Commission an update on the progress of the Comprehensive Plan and provide a timeline.

Long Range planner Beckye Frey discussed the following memo with the Planning Commission:

**Overview of July Open House Meetings:**

Staff hosted the following open houses to provide information and elicit additional public comments for the proposed 2016 Comprehensive Plan update.

- July 1, 2016 – South Whidbey High School (Langley)
- July 13, 2016 – Coupeville Recreation Hall
- July 19, 2016 – Elks Lodge (Oak Harbor)
- July 21, 2016 – Utsalady Elementary (Camano)

Additionally, planning staff hosted a Freeland Drop In day on July 14, 2016 and an open house on July 25, 2015 to provide information and elicit public comment related to the Freeland Subarea Plan and related development regulations.

In summary, approximately 80 attendees visited one of the four Comprehensive Plan workshops. Topics of interest included all components of the Comprehensive Plan, with many simply interested in the process and staying up-to-date with what is happening. Comments and interests varied by open house, but the following topics/comments were received multiple times.

- Promote/allow a mix of housing types/occupancy/cost
- More trails to walk/bike
- Expand bus service (routes/times)
- Affordable housing
- Allow RV for short-term guests

Approximately 27 attendees visited the Freeland Drop-In open house (July 14<sup>th</sup>) and the workshop (July 25<sup>th</sup>). Comment varied widely.

- Increasing commercial core uses (adding housing, standards, etc),
- Code enforcement and code updates (noise, chickens, kennels),
- Rezoning to Rural and unintended consequences (uses),
- Allowing current uses/buildings to be kept as-is and rebuilt after fire, etc.
- Parking should be visible (easy to find) but not overwhelming (small pockets)
- Like the new urban holding option (not waiting for sewer)
- Allow smaller housing unit sizes
- Like housing types and many options

The only major theme that rose to the top was the desire to maintain as much flexibility as possible, allowing Freeland to continue to evolve over time and not force a particular character on everything but to allow it to maintain its own unique character and not necessarily have strict requirements.

## **Disposition of the Implementation Chapter**

At the July 19, 2016 Board of Island County Commissioners (Board) meeting, planning staff received direction from the Board relating to residual language carried over from the current Comprehensive Plan, specifically as it relates to Benchmark Monitoring and Implementation. The Implementation section, although not required by state law, was adopted with the original Comprehensive Plan and called upon staff to routinely assemble and maintain significant amounts of data related to a number of plan components including the following topics.

- Growth and Development
- Urban Growth
- Transportation
- Affordable Housing
- Economic Development
- Property Rights and Permits
- Rural Lands
- Resource Lands
- Public Facilities and Services

This degree of data collection has never been achieved by staff and presents a significant challenge given limited staff resources available to dedicate to data collection and management. In addition, many aspects of data collection and how it would inform decision making processes are outlined within the individual chapters. Staff proposed simplifying and combining the Implementation section with the Introduction section (only the one section in the Preface). Staff would provide language regarding coordination with other jurisdictions, county, state and federal agencies to ensure that most appropriate and relevant data is utilized to inform future updates to the comprehensive plan.

At their meeting on July 25, the BOICC concurred with staff and asked staff to make the identified changes. The draft Comprehensive Plan provided to the Planning Commission reflects those changes.

*Chair Enell requested to have the Department provide the Commission with documentation to show exactly what was removed from this section and not relocated into the other elements.*

## **Tentative Timeline for Consideration and Adoption**

Long Range Planning staff developed the following tentative timeline for the review and adoption of the 2016 Comprehensive Plan.

- August 23, 2016 – staff will seek authorization from the Board to submit draft comprehensive plan to the Department of Commerce;
- August and September – staff will provide summary and analysis of public comments to the Board of Commissioners and the Planning Commission for

evaluation, including finalization of Urban Growth Area and Joint Planning Area maps;

- October – final revised draft comprehensive plan prepared;
- November- December – final draft presented to the Planning Commission for review and recommendation; and
- January 2017 – final review and adoption by the Board.

In accordance with the timeline provided, Planning and Development staff has completed the draft 2016 Comprehensive Plan and the associated Freeland Subarea Plan. The draft elements have been circulated internally for review from various County departments including:

- Public Works,
- Facilities,
- Natural Resources,
- Planning and Development (Current Planning),
- Prosecuting Attorney, and
- Public Health.

This has resulted in many minor edits and corrections and has assisted Long Range Planning staff to improve document clarity and accuracy. Although many of the draft elements have been available of the Island County website since April 2016, (<http://islandcounty2036.org/>), the revised document includes the following significant changes.

- The Implementation Chapter has been removed.
- The Introduction Chapter has been revised and now includes a condensed Implementation section, information about Sub Area Planning, and information about Interlocal Agreements.
- All elements have been revised to include completed maps and tables.
- Significant editing has been done to Appendix B reducing and eliminating unnecessary and redundant information.
- Appendix A has been completed and now includes a Growth Management Act Consistency Matrix citing relevant sections of the Comprehensive Plan that demonstrate consistency with the requirements of the Growth Management Act.

Section 36.70A.106 of the Revised Code of Washington (RCW 36.70A.106) requires each county amending a comprehensive plan to notify the State Department of Commerce of its intent to adopt/amend the comprehensive plan at least sixty days prior to final adoption. This review period provides the State Department of Commerce an opportunity to submit comments during the public review process prior to adoption. Staff anticipates seeking authorization to submit the draft 2016 Comprehensive Plan update to the State Department of Commerce at the next regular meeting of the Board of Island County Commissioners now scheduled for August 23, 2016.

Over the next few months, planning staff will continue to improve and edit the final draft. Additional edits may also be necessitated by legal review of the document which is still ongoing. Multiple reviews will be needed to identify and correct all formatting, typographical, and grammatical inconsistencies. Should any edits result in substantive changes to any narrative or any of the goals and policies, those will be brought to the Planning Commission's attention for review. Finally, additional revisions may also be necessitated by those public comments that will be provided to the Planning Commission and the Board and evaluated for inclusion in the Comprehensive Plan.

**As noted in the timeline above, staff anticipates work sessions in November and December to review the entire final draft with the Planning Commission and will seek a recommendation for adoption from the Planning Commission at that time.**

**PUBLIC HEARING – Proposed Amendments to Title 16 (Planning and Subdivisions) and Title 17 (Zoning).**

Assistant Director Beverly Mesa-Zendt provided an overview of today's hearing, discussing the previous housekeeping amendments which had passed through the Commission and approved and ultimately adopted into Code.

This round represents a more comprehensive list of corrections to inconsistencies in the Code. It offers some clarity where there has been some dispute or where occasionally staff has had to make a policy determination, which is never a good substitute for solid code. These are items that have been identified by staff and we are asking today that you open the public hearing, invite comment and then defer consideration until your regular meeting.

Chair Enell opened the public hearing.

**Bill O'Brien 4449 Bell Isle St, Langley**

Stated he has owned property on the island since the early seventies. His reason for being at the hearing was to encourage the Commission that the winery business is excellent for everyone involved, it brings tourism. People enjoy the wine trail that has been established and believes it is beginning to mirror what is happening in Okanagan County and as close as Woodinville. The events such as weddings and other events that surround these types of buildings, as long as they maintain compliance with ordinances and laws, should be encouraged.

**Rita Comfort 4361 Witter Rd., winery owner**

Provided a group of comments to the Planning Commission. She began by stating they have owned a farm with grapes growing for the last ten years. In the last five years they have been working with Island County to define wineries. They are concerned about some of the comments made by the Commission in the last workshop and the direction she felt they were going. She expressed concern that the Commission feels they can define what a winery is, but defining what wineries can do is too difficult and therefore is being postponed. Wineries and their operations are very complex. It is industry standard that wineries do events.

She further discussed the eight events they have held in the two months they have been open, elaborating on how many people were employed by just the last wedding event they held.

Washington State has already defined what wineries are, be sure to define what wineries can do. Do not just define a winery as a manufacturing facility, it is wrong. Do it right. Small businesses need to be supported in Island County. She asked the Commission to do their homework, to not do it half way.

**Sammy Postmont, Economic Development Council**

Stating she was passing along comments from Ron Nelson, their Director.

Upon further consideration the EDC feels the definition of a winery is complex and warrants further discussion. We urge the Commission to not rush into this decision.

**Betty Snyder, View Rd.**

She asked the Commission in their consideration for what wineries can do, to take into consideration the location of the wineries. She has no objection to wineries and the businesses they do, even the complexity of them. Her difficulty is when they are located in a rural residential area. It has a great effect on the neighbors.

She stated the Comforts Winery is beautiful and is located 400 feet from her property. When they have an event it affects her property value and the sanctity of her home from the back deck. She asked that when a winery is allowed to have events, please consider the neighborhood that they are in.

**Carl Comfort, 4361 Witter Rd.**

Discussed what he felt was a myth, that wineries degrade property values.

He also discussed the wedding held for 100 people, stating it was inside and then the doors were opened from 7:30 – 10:30 at which time music could be heard. These events allow businesses to function to prosper. Whidbey Island is not yet large enough nor had the opportunity to establish the wineries that are large enough to justify the expense.

He stated he agreed with the change to 17.03.100(A.14), stating this was a typo and was long overdue for being fixed.

Washington State has 750 – 800 wineries. He encouraged the Planning Commission not to adopt the most rigorous amount of Code for wineries. There are only eight or nine wineries. He felt there was not an event problem or a noise problem or a building height problem. He stated he felt it was just a handful of people who are not happy and don't like change.

Mr. Comfort further expressed his concern that letters of support for the winery that were sent to the County Commissioners and the Hearing Examiner did not find their way to the Planning Commission. He felt they were only hearing one side.

Discussion ensued regarding the definition of wineries

**Mike Holata Witter Rd.**

Stated he would like to see a finalization to this issue. He stated the word temporary should be taken out of temporary events, it doesn't mean anything anymore. It causes havoc in the neighborhoods. Some of the wineries he has talked to do not support events at the winery.

This isn't just an event around the Comfort Winery; whatever happens in this county is going to affect all the wineries.

He stated he was confused by Exhibit A; allowing wineries in CA and RA zones are going to be reviewed as Type I permits. He stated he was concerned by this, where is the transparency. He wanted to know who the administrator is who would be making the decision. Please take a closer look at this. What is the appeal process? He felt the State has a pretty good definition.

He is in support of wineries; he stated he just didn't want an Event Center in the neighborhood. The winery isn't zoned to be an Event Center and they get around it by these temporary events. He would like to know when the temporary events were going to end.

**Carl Comfort**

Stated the HE Hearing did not rule on the winery having a Rural Events Center. The only thing the HE ruled on was the County's authority to allow access to the winery via View Rd. instead of Wilkinson Rd., he was not authorized or permitted to rule on anything else and he supported the County's decision.

**Rita Comfort** – Ron Nelson with the EDC spoke to you last meeting about the North American Classification System. She wanted to clarify that the system is an economic census number which tells the classification of the majority of a business. It does not mean that it is the only thing you do as a business. Manufacturing wine is not the only thing they are restricted to do as a winery.

**Bill O'Brien**

Stated that he personally walked by all the neighbors' homes with a noise meter over the last two years, during the events. He concluded that the decibel reading was never over or came close to the allowed decibel reading according to County Code.

Chair Enell closed public comment

Chair Dean Enell discussed what he believes is the direction they are working toward in defining wineries, which is to define wineries as an administrative Type I decision to allow a person to open a winery very easily. If a winery wants to include accessories or other uses for the operation then the definition would define those methods by

- Where they are allowed
- What they are
- Where they are not allowed

- What extent
- What mitigation factor can apply to them

Wants to step through these codes and see what kind of revisions Planning Staff has proposed.

Assistant Director Beverly Mesa- Zendt stated the Director has been the project lead on these, if there are particular questions or concerns we may wish to defer that part of the discussion to the next meeting, when Hiller is present and can be specific to any questions outside the memo.

Commissioner Saul stated they have gone through these proposed amendments in quite some detail, but because it's not always the same 5 or 6 of the Commissioners at the Hearings, maybe they could try and understand if they have consensus on one and still don't have consensus on another, then at the next meeting they will focus on the ones they don't have consensus on.

Assistant Director Beverly Mesa- Zendt suggested if the Commissioners have additional information they would like to bring forward, this would be a good time to ask. It may help the decision making that will occur at the next meeting.

<b>Code Section</b>	<b>Description</b>
<b><u>17.03.180(F.3)</u></b>	<b><u>EDU program/density bonus system</u></b>

Needs definition of “prime agricultural soils”. Staff recommendation: make reference to the definition in the NRCS soils manual.

*Commission had no problem with this item*

<b><u>17.03.180(L.4)</u></b>	<b><u>Group Homes</u></b>
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Requires Group Homes to comply with the standards for Home Occupations in ICC 17.03.180(K.2). Not all of the standards for home occupations are relevant to group homes. Recommendation: select the standards for Home Occupations that should apply. See subsection 17.03.180(K).

*Commissioner Enell* Questioned No. 6 regarding “The home occupation does not employ on-site or report to work on-site, more than one (1) full time person other than those of the immediate resident family.” He is questioning if that is not an excessive restriction for a Group Home.

Assistant Director Beverly Mesa-Zendt offered to direct this question to Mr. West for the answer. She believes the number was selected for a specific reason and suggested there may be some compliance with State Law that might have informed that decision and added most times Federal Law wants Group Homes to be integrated into residential communities and regulations attached to them that treats them like other residents.

<b><u>17.03.100(A.14)</u></b>	<b><u>Wineries in the CA and RA zones</u></b>
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Allows wineries as a Type I decision in the CA zone. However, sec. 17.03.180T(1.d): states that wineries on parcels 10 acres or larger zoned Commercial Agriculture or Rural Agriculture may be allowed, processed as a Type II or III decision. Recommendation: the review process for wineries should be consistent in agricultural zones. The Type I process should apply, unless environmental (SEPA) review is necessary. Subsection 17.03.180T(1.d) would be removed.

Ms. Mesa-Zendt stated if you look at the reasoning of the Director, the intention was to make it consistent with other agricultural uses and to address expansion and other accessory uses through some other mechanism.

*Consensus was if it is not stricken to make it say smaller.*

**17.03.035: 120-day permit review period**

The use tables in this section refer to a 120-day permit review time period. However, there are many exceptions to this time period (see ICC 16.19.100), mostly taken from State statute. For Type I and II permits, the department strives to complete decisions in a shorter time frame. The current average in-house review time for all land use permits is 74 days. Rather than cite the 120-day time period, it may be more accurate to cite the statute (RCW 36.70B), also because the required review time period may change by State law. Staff recommendation is to cite the statute.

*Commissioner Saul commented that his recollection was rather than have a number assigned, it would refer to the State Statute and whatever the State Statute required. If that changed, it would not be necessary to change our Code. The Commissioners concerns were with the customer service perspective, it needed to say something about time is of the essence and the County would do it as quick as they could.*

*Commissioner Hand stated that one of the goals for the Commission with the Comp Plan was to have a product that anyone could understand. There needs to be some way to convey that to the public to explain exactly what that verbiage means.*

Planner Beckye Frey commented on the concern, stating the intent was to have both online and as hand outs in the office, something that explained the expected review process timelines.

Beverly Mesa-Zendt stated if you reference state law and it changes you still remain current, but what she was hearing from the Commission was that it is not enough to just reference state law; the public wants to understand what the timeframes are. In her experience it would state per RCW review shall occur in a period no greater than xx days and then it would have to be updated

*Commissioners okay with this item, with the suggested change.*

**17.03.060.C.5 Reduced lot sizes for new lots in Rural zone**

This subsection provides that, in the Rural Zone, “variations of ten (10) percent in the five acre lot size may be allowed to account for special site features, unusual topography or similar factors that make strict adherence to minimum lot size impractical.” There is no accounting for situations where the County or the State buys up ROW resulting in lot sizes now under the minimum. Lot area is defined in 17.03.040 as the “area within the lot lines”. In the 5-acre zone, for example, a 10-acre parcel that could normally be divided into 2 lots cannot, if ROW dedication for public road improvement is required and it reduces parent parcel size to less than acres. Right-of-way dedication should not penalize the property owner. Staff recommendation is to include right-of-way dedicated as a result of a State or County requirement in the lot area for subdivision purposes.

*Commissioner Enell stated he didn’t believe the owner should be compensated twice. He would like to see this clarified to ensure the owner is not compensated twice.*

**17.03 (several sections) Building Height**

Building height is regulated in each zone – department policy currently establishes how to measure it. This is sometimes confusing. Recommendation: establish that height measurement shall be as established in the building code.

*Commissioners okay with this*

**17.03.040 Lot area**

Currently defined as “the total land area within the lot lines”. This often includes private tidelands, which are not buildable, for the purposes of meeting minimum lot size. Recommendation: for the purposes of calculating lot area, lands seaward of the OHWM would not be included in the calculation of lot size, as they are not buildable.

*Commissioners okay with this*

**16.06.070 Expiration of boundary line adjustments**

Currently, boundary line adjustment approvals become final upon recording. Some approved BLA’s have not been recorded in a timely fashion, properties have sold subsequent to the approval, but without having been recorded the boundary line(s) remains the same between properties, now with one or more owners who were not a part of the original application. Recommendation: require that boundary line adjustments be recorded within six (6) months of final approval.

*Commissioners okay with this*

**17.03.040 Definition of “Winery”**

Recommendation: adopt a definition for “winery”. This definition could be the one currently in Washington State statute (RCW 66.04.010(50): “a business conducted by





While 17.03.120 appears to identify all of the allowed and prohibited uses for the RC zone, it refers to “areas with a predominant pattern of Mixed-Use development existing on July 1, 1990, which are listed in ICC 17.03.155 and depicted in the Zoning Atlas”. There are a number of more specific standards for each “mixed use raid” identified in Appendix A of the Zoning Code. For example, 17.03.120.c lists “any building greater than 50,000 square feet” as a prohibited use; however, appendix A indicates that in the Clinton RAID, buildings greater than 14,000 square feet are prohibited. Separate standards for each RAID should be listed (for clarity) in 17.03.120, with specific zoning designations for each RAID. Recommendation: create a matrix of the various RAID’s and the specific standards and zoning that apply to each.

*Commissioners okay with this change*

**17.03.050 .G.7                      Transfer of Development Rights**

The reference to Transfer of Development Rights should be eliminated, as Island County does not administer a TDR program, or issue “certificates of development rights”. Recommendation: eliminate reference to TDR program. Should a TDR program be created in the future, it can be placed in a separate chapter.

*Chair Enell stated we do not have TDR’s and moved to next item*

**17.03.180.W.3.b                      Setback reduction for lots under one acre in size**

For lots less than one (1) acre in size, the setback may be reduced as necessary to allow reasonable economic use of the property. The setback shall not be reduced to less than twenty (20) feet unless it is necessary to achieve a reasonable use as defined in chapters [17.02](#), [17.02A](#), and [17.02B](#). Recommendation: Revise the term “reasonable economic use” to “reasonable use” and adopt the following definition for reasonable use which has been proposed as part of the Fish and Wildlife Habitat Conservation Areas update in ICC 17.02B: “*Reasonable use means the logical or rational use of a specific parcel of land which a person can be expected to conduct or maintain fairly and appropriately under the specific circumstances, considering the size of the lot, the type of use or structure proposed and similar uses and structures in the general vicinity of the lot, that are permitted uses consistent with and conforming to current regulations.*”

*Commissioners okay with this change*

Becky Frey stated she had another item to consider: Current Planning and Long Range Planning had discussions on TDR and maybe slightly different viewpoints. She further stated setting aside the TDR to next year for the housing discussion was suggested by one of the Board of County Commissioners.

*Commissioners agreed to table this item and make no change*

Commissioner Saul stated there were three others the Commission felt still needed further discussion: 17.03.100(A.14) wineries in the CA and RA Zones; 17.03.040 Definition of winery; 17.03180T which was tied to the wineries in the CA and RA.

*Commissioner Krug asked to have added to the discussion the Rural or Commercial Ag on ten acres or larger. Commissioner asked that if it is not stricken to have it be changed to smaller than ten acres.*

*Commissioner Wallin asked to have some of the other definition of wineries that are out there re-sent to the Commission for review prior to their next meeting.*

Beverly Mesa-Zendt summarized the Commissioners request for additional information and discussion on the following:

- Would like to have the wine definition bench mark showing what other communities define as wine to be provided.
- For home occupation to expand on the reasoning of the maximum 1 FTE employee for Group Homes and if it is grounded in any specific state or federal law; 17.03.180 (L4)
- Acquisition vs. Right-of-way dedication policies for State and County.
- Asked for three items to be brought back for further review and discussion:
  - 17.03.100(A.14) wineries in the CA and RA Zones
  - 17.03.040 the definition of wineries
  - 17.03.180T small scale recreation and tourism uses

*Commissioner Krug moved to continue hearing to September 12<sup>th</sup>, Commissioner Wallin seconded, motion carried unanimously.*

*Commissioner Krug moved to adjourn, Commissioner Wallin seconded, motion carried unanimously.*

Meeting adjourned at 4:04 p.m.

Respectfully submitted,

Tara Dyer