

Kitsap County Planning Commission Minutes – April 6, 2021

KITSAP COUNTY PLANNING COMMISSION

Zoom Webinar

<https://us02web.zoom.us/j/84505938024>

OR Dial In: (253) 215-8782 Webinar ID: 845 0593 8024 Password: x

April 6, 2021 @ 5:30 pm

These minutes are intended to provide a summary of meeting decisions and, except for motions made, should not be relied upon for specific statements from individuals at the meeting. If the reader would like to hear specific discussion, they should visit Kitsap County's Website at <http://www.kitsapgov.com/dcd/pc/default.htm> and listen to the audio file (to assist in locating information, time-stamps are provided below).

Members present: Joe Phillips (Chair), Amy Maule (Vice Chair), Aaron Murphy, Alan Beam, Kari Kaltenborn-Corey, Mike Eliason, Stacey Smith, Steven Boe

Members not present: Kim Allen

Staff present: Jeff Rimack, Dave Ward, Liz Williams, Kirvie Mesebeluu-Yobech, Amanda Walston (Clerk)

Agency Representatives: Maria Sandercock (WA State Dept. of Ecology), Leila Willoughby-Oakes and Dan Nickel (Watershed Company)

5:30 pm

A. Introductions

- Steven Boe joins as the newest Planning Commissioner, appointed by Commissioner Wolfe, representing the Central Kitsap District.

B. Virtual Meeting Protocol

C. Adoption of Agenda

- **MOTION:** Stacey Smith moves to adopt the agenda as presented.
- **SECOND:** Amy Maule
- **VOTE: 8 in Favor; 0 Opposed – Motion Carries**

D. Adoption of Minutes

- **Minutes of 3/16/21 continued to next regular meeting**

E. General Public Comment

- **Chair Phillips opens the floor** to speakers wishing to provide testimony.
- **SPEAKER:** Bill Palmer, South Kitsap resident, President of Kitsap Alliance of Property Owners (KAPO)

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- 1 • Asks about Findings of Fact documents in materials when
2 deliberations have been completed yet.
- 3 • Mr. Phillips notes he approved Staff inclusion of Draft Findings of Fact
4 document to allow for easier update and amendment following
5 deliberations and recommendation.
- 6 • Seeing and hearing no other speakers, Chair Phillips closes the floor.

7 **5:39 pm**

8 **F. Status Update: Buildable Lands Program Update – Liz Williams, DCD Planning**
9 **Supervisor (est. 5 min)**

- 10 • Ms. Williams presents a project overview to date, noting two main deliverables
11 are the Development Trend Review and Land Supply Analysis (LCA); the
12 Buildable Land Program (BLP) deadline is June 30, 2021; notes the County has
13 reviewed steps 0 – 3; posted the preliminary draft analysis which includes
14 recommendation for Market Factors; shows visual navigation to get to the
15 preliminary draft and other contents on the Project Site for BLP.

16 **5:43 pm**

17 **G. Deliberations 2 of 2 : Shoreline Master Program (SMP) Draft Amendments – Kirvie**
18 **Mesebeluu-Yobech, Department of Community Development (DCD) Planning &**
19 **Environmental Programs (PEP) Planner (est. 1 – 2 hr)**

- 20 • Mr. Phillips notes the Planning Commission (PC) discussion is now open to the
21 full public comment matrix.
- 22 • **QUESTION:** Mr. Eliason asks, in Public Comment Matrix Part 3, with all code
23 protections in place for property owner rights, why are we trying to make the
24 change for view blockage setbacks during reconstruction; noting concern that
25 older homes might end up having to meet new standards when remodeling or
26 rebuilding after damage.
- 27 • **ANSWER:** Ms. Mesebeluu-Yobech notes this refers to Issue Reference
28 #2, Comment #2c in the Public Comment Matrix. The change in
29 wording is meant to clarify and cross-reference the section of building
30 code that allows the reconstruction.
- 31 • Mr. Eliason notes his concern is that this language is unclear if older
32 properties that want to remodel or rebuild after a fire using the same
33 footprint would be grandfathered in, or if they would be subject to
34 meet new view blockage standards or to make concessions if
35 neighboring homeowners voice objections even if those homes may
36 have been built later, because of this new code.

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- **QUESTION/ANSWER:** Kari Kaltenborn-Corey asks, also related to view blockage, and Mr. Ward confirms, any separate View Ordinance would not apply to this area of the SMP.
 - Ms. Kaltenborn-Corey notes views are an important issue in the Manchester area, which has its own View Protection Overlay (VPO), with a maximum height of 28 feet vs. 30 feet in the SMP.
 - Ms. Kaltenborn-Corey asks, and Mr. Rimack confirms, if multiple versions could apply, the more restrictive version of code is enforced.
 - Ms. Kaltenborn-Corey notes up until 2016, vegetation was accounted for in the VPO, asks why it was removed.
 - Mr. Ward is unsure of reasoning, will follow up.
 - **QUESTION:** Mr. Beam notes Issue Reference #15 calls for a stronger monitoring system; asks why general monitoring, which was discussed in 2012, was not addressed here.
 - **ANSWER:** Mr. Ward notes in addition to project monitoring and mitigation already required, DCD is in current development of a program to monitor projects after completion to sustain no-net-loss, mitigation, effectiveness.
 - Mr. Nickel notes no-net-loss review process is not required in this review, thought DOE will likely send that back at some point, so it really starts now at project level so when the County is asked to show that, all is in order, but not DOE required at this time.
 - **QUESTION:** Mr. Eliason asks about a previous comment from Parks regarding impervious surfaces and application of the Americans with Disabilities Act (ADA); noting text state 'pervious surfaces shall be utilized except where determined infeasible'; asks who/what determines infeasibility.
 - **ANSWER:** Mr. Ward notes no specific discussion with Parks, but also notes there are other pervious surfaces available that are compatible with ADA; it isn't limited to just flat pavement; Feasibility is reviewed and determined at time of intake; if pervious pavement is not suitable, other alternatives are discussed and identified.
 - **QUESTION:** Mr. Beam asks, on Issue Reference #10, is a Shoreline Exemption letter required before the Building Permit? If so, does that extend the project timeline out further?
 - **ANSWER:** Mr. Rimack notes Exemption Letters have specific thresholds on what can be exempted; internal review process reviews RCW (Revised Code of Washington) and WAC (Washington Administrative Code) to ensure whether it qualifies for an exemption; they must call out specific details, circumstances, showing what can
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1 be exempted; specific RCW & WAC language is outlined in the
2 comment matrix

3 • Mr. Beam notes comment from testimony, asked if there is a way to
4 combine or group all 3 Shoreline Exemptions together.

5 • Mr. Rimack notes there are scenarios where requirements are driven
6 by other agencies, but Kitsap County is the administering body; we try
7 to group if possible, but can't always do it; we cannot negate
8 requirements not driven by our code.

9 • **QUESTION:** Mr. Eliason notes in Issue Reference 15, Exemption from Shoreline
10 Substantial Development Permit (SSDP), KAPO testimony suggested adding this
11 to current code would add 6 months and substantial cost to the approval
12 process; asks about staff's response to time and cost comment.

13 • Ms. Mesebeluu-Yobech notes the interpretation actually refers to the
14 Shoreline Exemption Letter process, not SSDP; there is a specific
15 process for other property owners to do this and it does not take 6
16 months; this is addressed by staff under Issue Reference #10
17 (references letter 3 and letter 15) on cost and time.

18 **6:07 pm**

19 • **MOTION: Ms. Smith moves to approve proposed changes to Title 15 as**
20 **presented and amended.**

21 • **SECOND: Mr. Boe**

22 • **DISCUSSION**

23 • Mr. Eliason notes it was difficult consideration, with all the testimony.

24 • Chair Phillips appreciates the productive response and discussion
25 from Staff and PC.

26 • **VOTE: 8 in Favor; 0 Opposed; Motion Carries**

27 • **MOTION: Ms. Maule moves to approve proposed changes to Title 21 as**
28 **presented and amended.**

29 • **SECOND: Ms. Smith**

30 • **DISCUSSION**

31 • **None**

32 • **VOTE: 7 in Favor; 1 Opposed; Motion Carries**

33 • **MOTION: Ms. Kaltenborn-Corey moves to approve proposed changes to Title**
34 **19 as presented and amended.**

35 • **SECOND: Ms. Maule**

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- 1 • **DISCUSSION**
- 2 • **None**
- 3 • **VOTE: 8 in Favor; 0 Opposed; Motion Carries**
- 4 • **MOTION: Ms. Smith moves to approve proposed changes to Title 22 as**
- 5 **presented and amended.**
- 6 • **SECOND: Ms. Maule**
- 7 • **DISCUSSION**
- 8 • **MOTION TO AMEND: Ms. Smith moves to add to the end of the first**
- 9 **paragraph of 22.100.110, ‘Kitsap County recognizes the American**
- 10 **Indian Point No Point Treat and honoring the usual and customary**
- 11 **tribal lands.’**
- 12 • **SECOND: Ms. Maule**
- 13 • Mr. Beam asks why this should be included.
- 14 • Ms. Smith notes 3 tribes commented on its importance; share
- 15 governance; and believes in 2021 inclusion and recognition of
- 16 indigenous peoples is of value and believes adding a sentence to
- 17 commit to the vision and maintenance of shared shorelines is of
- 18 value.
- 19 • Mr. Eliason notes similar statements in other areas of code and
- 20 Comp Plan; is inclined to go along with Staff, not include it in
- 21 development code.
- 22 • Ms. Maule notes reading through the Purpose & Intent already
- 23 here talks about ‘residents of all ages, enhancing quality of life
- 24 for all citizens’ which is also superfluous language; if rejecting
- 25 Commissioner Smith’s suggestion, why not reject the rest;
- 26 clarifies no desire to delete, but for comparison purpose.
- 27 • Ms. Mesebeluu-Yobech pulls up visual of 22.100.110.
- 28 • Mr. Eliason asks, and Mr. Ward confirms, Staff has consulted
- 29 legal and inclusion of language is not required, as Treaty
- 30 language is official interpretation; Mr. Eliason is concerned it
- 31 would be recommended without approval from legal.
- 32 • Ms. Smith notes she used Staff’s own language from the
- 33 Comment Matrix as the sentence structure for her proposed
- 34 amendment.
- 35 • Mr. Murphy notes it is odd, that the County’s equitable
- 36 language currently in code only references residents of all ages,
- 37 and does not include race, gender, or anything else.

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- 1 • Chair Phillips asks, and Ms. Smith restates her motion.
- 2 • **VOTE (on AMENDED MOTION): 5 in Favor; 3 Opposed; Motion**
- 3 **Carries**
- 4 • **MOTION TO AMEND: Mr. Murphy moves to simplify the end first**
- 5 **sentence of first paragraph of 20.100.110, to replace ‘residents of all**
- 6 **ages’ with ‘all residents, without exclusion.’**
- 7 • **SECOND: Mr. Eliason**
- 8 • **VOTE (on AMENDED MOTION): 8 in favor; 0 opposed; Motion**
- 9 **Carries**

10 **6:30pm**

- 11 • (Commissioner Maule leaves the meeting)
- 12 • **DISCUSSION RE: Issue Reference #2, Comment 2c in the Public Comment**
- 13 **Matrix (View Blockage)**
- 14 • Mr. Eliason notes the earlier discussion did not result in a proposed
- 15 amendment, but there is still concern that the language now is unclear and
- 16 may infringe on rights of property owners with existing non-conforming use
- 17 who may want to remodel or repair due to damage.
- 18 • Mr. Ward believes that is what the proposed change is trying to protect, but
- 19 maybe is not achieving that intent clearly; Mr. Rimack concurs, believes
- 20 language layout could be confusing, could be reworked to clarify.
- 21 • Chair Phillips asks if Mr. Eliason is proposing a change; Mr. Eliason does not
- 22 have language ready now, would defer to keep current code.
- 23 • Mr. Beam asks, and Ms. Mesebeluu-Yobech and Mr. Nickel confirm, current
- 24 code was unclear and required a Director’s Interpretation, which prompted
- 25 this proposed clarification on how Staff and DCD interprets the code.
- 26 • Mr. Rimack clarifies that this code is referencing that 22.400.100.b does allow
- 27 the protection to rebuild or remodel, in the same footprint, to the original view
- 28 blockage requirements, and not have to meet current or new SMP view
- 29 blockage requirements. It is the placement of the reference that seems to
- 30 cause confusion.
- 31 • Discussion continues with multiple language suggestions.

32 **6:43 pm**

- 33 • Mr. Rimack suggests moving the reference to 22.400.100.b to the end, instead
- 34 of the middle of the sentence will clarify the intent to protect property owners
- 35 rights and still clarify language for staff and customers; Clerk asks for
- 36 clarification and structure; Mr. Rimack asks for visual of suggested correction.

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6:48 pm

BREAK

6:55 pm

- Chair Phillips asks, and Mr. Rimack confirms, the reference to 22.400.100.b, is at the end of the sentence, not the end of the paragraph and there is the removal of a comma and the word of in the visual display of suggested wording.
- (Commissioner Murphy leaves the meeting)
- **MOTION TO AMEND: Mr. Eliason moves to replace the entire proposed language change for Issue Reference 2, Comment 2c, to read: *'In order to protect water views, all principal buildings and all additions to a principal building, shall be located to maintain the minimum shoreline structure setback line. All such buildings must also be designed not to significantly impact views from principal buildings on adjoining and neighboring property or properties. Reconstruction of existing principal buildings is allowed per Section 22.400.100(B). The shoreline structure setback line for the purpose of this subsection is based on the location of the principal building(s) at the time of a permit for a new principal building, and shall be determined as:'***
- **SECOND: Mr. Boe**
 - **VOTE (on AMENDED MOTION) : 6 in Favor; 0 Opposed; Motion Carries**
 - **VOTE ON MAIN MOTION: 6 in Favor; 0 Opposed; Motion Carries**

7:02 pm

H. For the Good of the Order/Commissioner Comments

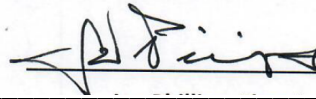
- Ms. Smith thanks Staff for large undertaking and help with new commissioners.
- Mr. Ward asks if PC wants to consider Findings at this meeting.
- Chair Phillips asks, AND Clerk confirms, a unanimous Vote in favor by the PC is required to consider the Findings at the same meeting as Recommendation; PC declines to consider at this meeting.
- PC welcomes Mr. Boe; Mr. Boe thanks PC and Staff.
- Mr. Eliason asks if there is an estimate on timing of the Annual Report.
 - Mr. Rimack notes this will take some time; with recent personnel changes, Admin team is down by 2 and it will take some time to get a plan for balancing workload and the report included.

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- 1 • Mr. Beam asks when in-person meetings may resume.
- 2 • Mr. Rimack notes details are still largely unknown as to when the
- 3 Administration Building will be opened back up and the
- 4 Commissioner have not expressed interest in bringing back face to
- 5 face meetings; data on numbers and phase levels are still being
- 6 gathered and there is no finite answer or date yet.
- 7 • Mr. Eliason and Mr. Ward thank and recognize staff and project consultants for
- 8 hard work and pulling together a good team and making a good presentation
- 9 on a complex project.
- 10 • **MOTION: Mr. Eliason moves to adjourn the meeting.**
- 11 • **SECOND: Mr. Boe**
- 12 • **VOTE: 6 in Favor; 0 Opposed – Motion Carries**

13 **Time of Adjournment: 7:35 pm**

14 **Minutes approved this 20th day of May 2021.**

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16 _____
17 **Joe Phillips, Planning Commission Chair**

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19 _____
20 **Amanda Walston, Planning Commission Clerk**