

**RECORD OF PROCEEDINGS OF THE  
WHATCOM COUNTY PLANNING COMMISSION  
May 9, 2019**

Regular Meeting

1

1 **Call to Order**

2 The meeting was called to order, by Whatcom County Planning Commission Chair,  
3 Kelvin Barton, in the Whatcom County Northwest Annex at 6:30 p.m.

4 **Roll Call**

5 Present: Robert Bartel, Jon Maberry, Kelvin Barton, Atul Deshmane, Dominic Mocerì  
6 Absent: Natalie McClendon, Gary Honcoop, Kimberley Lund, Stephen Jackson

7 **Staff Present**

8 Cliff Strong, Ryan Ericson, Ashley Ubil

9 **Department Update**

10 The Shoreline Management Program update has begun. The consultants are doing  
11 background work for the program update. There will be three public open houses in  
12 late June to help scope the update. The Planning Commissioners will be invited to the  
13 meetings.

14 Commissioner Deshmane attended a lecture by Eric Grossman discussing cumulative  
15 facts about sea level rise and storm surges.

16 Mr. Strong stated that the department has been learning more about that model and  
17 may work with the City of Bellingham. Climate change may or may not be addressed in  
18 the periodic update.

19 Commissioner Deshmane provided background regarding the model, stating that there  
20 is a combined phenomenon that is a combination of sea level rise and flooding which  
21 puts extra pressure on the bottle neck where the water meets the ocean. When water  
22 is coming down in the spring along with sea level rise, there is a higher risk for  
23 flooding.

24 **Open Session for Public Comment**

25 Jon Humphrey: Please keep one phrase in mind – if you choose not to decide you still  
26 haven't made a choice. We live in one of the most technologically advanced  
27 civilizations in known history. Applied correctly, new technology can provide the tools  
28 we need to maintain a high quality of life, while helping us address most of our  
29 concerns. However, we need to remember that technology has a dark side too. Now  
30 there are lies being told about 5G wireless systems. While there is not enough time to  
31 go into all of it, it is obvious that they will not meet our needs, they are also dangerous  
32 and being forced onto us. Yet most of the entities that could investigate the impact to  
33 new technologies refer everyone to the captured FCC, who have set dangerously high  
34 limits for lab radiation absorptions caused by wireless systems. Among the problems  
35 with 5G are a slew of health, environmental, social, and economic problems, like the  
36 many studies linking 5G to cancer and other health issues. The emitters will be placed  
37 close to schools and other areas, where the most vulnerable will be constantly  
38 exposed. This is one of the reasons that insurance companies will not cover illness  
39 caused by wireless equipment. They also negatively affect other lifeforms, like the  
40 insects we rely on for pollination. Weather forecasters believe that 5G will make it

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1 virtually impossible for them to accurately predict the weather, including serious  
2 storms. 5G also requires deforestation. This will not only come at the cost of the  
3 natural beauty of our area, but will also contribute to erosion and landslides. 5G has  
4 nothing to do with safety. Safety systems like First Net, work well below the 5G range.  
5 While they claim 5G waves are short, they easily penetrate many building materials  
6 and travelling from the street into your home will not be a problem. The fact that the  
7 system is bad is further supported by the infrastructure needed just to get it to work  
8 correctly. The performance is still inconsistent. The idea that 5G can compete with  
9 fiber optics is laughable. Fiber optics are needed to support those wireless systems in  
10 the first place; 5G makes the translation worse. The only time 5G comes close is under  
11 perfect conditions. You may say there is nothing you can do, but there is. The FCC has  
12 clearly overstepped its bounds. It has no right to set health standards, involuntarily  
13 encroach on our land, and force citizens to absorb unwanted radiation. We need to do  
14 what other communities have done, ban the installation and use of 5G equipment. A  
15 proper technology committee needs to be formed. A study needs to be done to further  
16 investigate the health effects of wireless technology including smart meters. A county  
17 wide policy needs to be established to build a publicly owned fiber optic network.

18 Mr. Ericson thanked Mr. Humphrey for his comment and suggested that he also reads  
19 this comment at County Council meetings.

20 Olivia Wareham: I would like to speak on behalf of all life in the surrounding area that  
21 is about to be subject to the negative biological effects of 5G. In 2018, more than 200  
22 scientists in 40 different countries appealed to the European commission asking them  
23 to hold off on implementing 5G until they can study the health impacts. The National  
24 Toxicology Program published a report the same year that found that radiation from  
25 2G and 3G cell phones was linked to cancer in mice. That's 2G and 3G, imagine what  
26 4G and 5G does. 5G also uses a combination of microwaves and millimeter waves,  
27 which are scientifically proven to harm people and nature. Counties all over  
28 Washington State are standing up against the FCC. Portland, Oregon is suing the FCC.  
29 I have emailed several City Council members and have been told that this is out of  
30 their hands. That excuse is ludicrous and absolutely not true. There is a growing Stop  
31 5G Facebook page which will produce a Stop 5G Petition in the near future. Martin  
32 Paul, a professor of biochemistry and basic medical sciences at Washington State  
33 University, said that installing essentially millions of 5G antennas without having done  
34 any biological testing is the stupidest idea anyone in the world has had. Albeit  
35 opinionated, his point stands valid. Professor Trevor Marshall, director of Autoimmunity  
36 Research Foundation, said allowing this technology to be used without providing its  
37 safety is reckless in the extreme, as the millimeter waves are known to have a  
38 profound effect in the human body. Instead of ignoring science and endangering the  
39 lives of 90,000 humans, not including plants and animals, please strongly consider the  
40 future for the greatest good of all. We are not guinea pigs.

41 **Commissioner Comments**

42 Commissioner Deshmane asked Mr. Ericson if the County Council is the only place that  
43 this information should be presented, or if it should be presented at both meetings.

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1 Mr. Ericson stated that Planning and Development staff typically gets direction from  
2 the County Council on changing policy.

3 Commissioner Deshmane asked if this information relates to any of the tree removal  
4 policies that will be addressed through the agenda. He also asked if the people who are  
5 installing 5G transmitters need to abide by the same tree removal regulations.

6 Mr. Strong stated yes, but the tree regulations only apply in the watershed areas.

7 **Approval of Minutes**

8 **Commissioner Bartel moved to approve. Commissioner Deshmane seconded.**  
9 **The motion carried (ayes-4, nays-0, abstain-1).**

10 **Public Hearing**

11 **File #PLN2019-00012: Proposed amendments to WCC Title 20, 16, and 23**  
12 **pertaining to hazards trees.**

13 Mr. Strong presented the staff report.

14 In 2016, new stormwater regulations were adopted by the Council. One of the tactics  
15 used to help manage stormwater in the watershed areas was to adopt tree protection  
16 regulations. There was one section in the code that caused a gap in code. This section  
17 stated that a permit is required, provided that the tree was not located within shoreline  
18 jurisdiction within critical areas or critical area buffers. This was intended to mean that  
19 the applicant would have to go through the other process, but it did not state that  
20 clearly. The purpose is to propose additional language to clean the code up.

21 Commissioner Deshmane asked if this cleans up language for county staff and people  
22 proceeding with permits.

23 Mr. Ericson stated that the intent was that hazard trees could be taken down and trees  
24 could be taken down to the canopy thresholds within those areas, but this was meant  
25 to determine which permit type you would apply for. The new language helps clearly  
26 show which permit type an applicant would need to use.

27 Mr. Strong stated that these regulations only apply in the watershed resource areas.

28 Commissioner Deshmane asked if there have been any projects that have been difficult  
29 due to the vague language or if the new language would make things easier moving  
30 forward.

31 Mr. Ericson stated that the new language would create an easier process for staff  
32 moving forward.

33 Mr. Strong stated that county staff is proposing to amend the Shoreline Master  
34 Program. It is a limited amendment to update which CAO applies. During the 2018  
35 code scrub, the Planning Commission and County Council agreed to normalize the  
36 definition of hazard tree. Because there were changes in the CAO, there is a state  
37 process that needs to be followed to adopt it into the Shoreline Management Program.

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- 1 Commissioner Bartel asked if someone is not developing their property, but wanted to  
2 cut down trees, the person would have to plant additional trees under the regulations.  
3
- 4 Mr. Strong stated that yes, trees can be taken down, but more trees would need to be  
5 planted to maintain the tree canopy.
- 6 Commissioner Bartel asked if there are specific trees that are required for the  
7 replanting.
- 8 Mr. Ericson stated that it depends on the location. If a site is located within a critical  
9 area or shoreline, a native tree species is required. If a site is outside of those areas,  
10 there is no requirement as to what types of trees need to be planted.
- 11 The hearing was opened to the public.
- 12 Ed Miller: After speaking to an arborist, there is no definition for the minimum size of a  
13 tree.
- 14 Mr. Ericson responded stating that there is not a minimum size. In this section of code,  
15 the terminology used is a significant tree, for which there is a definition. It is 8 inches  
16 for a conifer and 12 inches for deciduous.
- 17 Commissioner Deshmane asked if the definition was for height.
- 18 Mr. Ericson clarified that the numbers in the definition specify the diameter of the tree.
- 19 Commissioner Deshmane asked if this applies to the significant tree coming down or  
20 the tree that is planted to replace the tree.
- 21 Mr. Ericson stated that the definition applies to the significant tree coming down. There  
22 are no standards for replacement of trees.
- 23 Commissioner Deshmane stated that it is likely the replacement tree will be a sapling.
- 24 Mr. Ericson agreed.
- 25 Commissioner Deshmane stated that the code is not that stringent regarding  
26 replacement trees.
- 27 Mr. Strong stated that in his experience it does not make a difference whether or not  
28 there are size restrictions on replacement trees because in 3-5 years they typically end  
29 up being around the same size.
- 30 Jon Humphrey: A lot of the older trees perform well to clean the air, stop erosion,  
31 filtration, and other important things. Cutting down healthy trees and replacing them  
32 with saplings that may or may not survive and may take a decade to perform well,  
33 should be noted. It seems like there should be better standards for replacement.
- 34 Mr. Ericson stated that this is a true statement, but the sapling standard is what  
35 County Council has approved.
- 36 The public hearing was closed.

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- 1 Commissioner Deshmane stated that having the overall capacity at some point in the  
2 future, even though there will be a temporary loss in capacity, is what is currently  
3 written in the policy.
- 4 Mr. Ericson responded that County Council set a threshold for canopy area, not  
5 necessarily per acre.
- 6 Commissioner Mocerri stated that a person will have to replant three trees for taking  
7 down one tree. He assumes that it will be inspected once it is planted. He then asked if  
8 there is a survival inspection.
- 9 Mr. Ericson stated that if it is a part of mitigation, then it will be inspected in 5 years,  
10 but it is typically a one-time inspection. Over time, there is a high density detection  
11 change analysis that Fish and Wildlife does, and could be enforced upon if the applicant  
12 tries to submit a building permit.
- 13 Commissioner Mocerri asked for clarification about the high density detection change  
14 analysis when applying for a building permit.
- 15 Mr. Ericson stated that the applicant signed an agreement to maintain those trees, so  
16 they could be required to plant if the applicant did not comply.
- 17 Commissioner Maberry asked if there is a penalty for not maintaining the trees.
- 18 Mr. Ericson stated that typically a call will come in from a neighboring party that  
19 something is not being done properly, which would prompt a code enforcement case,  
20 but the County does not actively monitor this.
- 21 Commissioner Bartel asked for clarification on pruning and maintenance. He asked if  
22 there is a problem with too much maintenance.
- 23 Mr. Ericson stated that the tree is typically cut down, so the percentages apply to what  
24 is left of the cut down tree.
- 25 Commissioner Deshmane asked if there is any difference in code for businesses that  
26 want to cut down trees.
- 27 Mr. Ericson stated no.
- 28 Mr. Strong stated that the codes apply equally.
- 29 Commissioner Deshmane asked about the trees being cut down in the Silver Beach  
30 area.
- 31 Mr. Ericson stated that this is outside of the watershed, but this project is permitted  
32 with a Class 1 Forest Permit.
- 33 **Commissioner Mocerri moved to approve Exhibit A, the findings of facts, and**  
34 **the staff report as is.**
- 35 **Commissioner Maberry seconded.**
- 36 Commissioner Deshmane asked if these codes are currently in place, or if this is  
37 something new.

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- 1 Mr. Ericson stated that these codes are in place currently, but the proposed  
2 amendments clarify what permits are needed.
- 3 Commissioner Deshmane asked if this is to clarify the rules and extend it to all cases.  
4 Mr. Ericson stated yes.
- 5 Mr. Strong stated that both the CAO and SMP have rules for taking out trees, but the  
6 original language was unclear.
- 7 Commissioner Deshmane stated that these rules do not mitigate the environmental  
8 impact of development because there will still be an impact when taking down large  
9 amounts of trees.
- 10 Mr. Strong stated that it is an effort to try to maintain a tree canopy in the watershed.
- 11 **Roll Call Vote: Ayes-Bartel, Deshmane, Maberry, Moceri, Barton; Nays-0;**  
12 **Abstain-0. The motion carried.**
- 13 Commissioner Barton stated that the meeting will move to unfinished business  
14 regarding the wetland buffer update.
- 15 Mr. Strong stated that he attended a meeting with the Department of Ecology. The  
16 County could change the habitat breakdown scores now, but the wetland buffers will  
17 need to be changed at the time of the Shoreline Management Program update. He  
18 stated that he recommends dropping the issue for now and addressing it at the time of  
19 the Shoreline Management Program update in 2020.
- 20 Commissioner Deshmane asked if the Department of Ecology lowered the pressure  
21 they were putting on Planning and Development staff to implement the wetland buffer  
22 amendments.
- 23 Mr. Strong stated that the Department of Ecology said that the amendments did not  
24 have to be implemented now, but there was confusion as to whether or not both the  
25 wetland buffer amendments and habitat scores had to be done at the same time.
- 26 Mr. Ericson stated that the Department of Ecology cannot force the amendments right  
27 now, but has line veto of the Shoreline Management Program.
- 28 Commissioner Deshmane asked if the Planning and Development's interpretation of the  
29 rule making authority is different than the Department of Ecology's interpretation of  
30 the rule making authority.
- 31 Mr. Ericson stated that the Department of Ecology provides the best available science  
32 for the CAO update. The Shoreline Management Program is controlled by the  
33 Department of Ecology, but Planning and Development Services implements it.
- 34 Commissioner Deshmane stated that he would like staff to give additional information  
35 about the 5G issue.
- 36 Commissioner Barton stated that this is new information, not unfinished business.
- 37 Commissioner Moceri asked the public attendees what comments they may have  
38 regarding the wetland buffers.

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1 Ed Miller: I can understand waiting to make all of the changes during the Shoreline  
2 Management Program Update and not change the habitat score break. While it might  
3 be a pain to change it as an amendment, there will be a full year worth of time that  
4 applicant's will have larger buffers when they could be smaller. County staff could  
5 provide a relief to these applicants if they made the wetland buffer changes now.

6 Mr. Strong stated that he understands, but the Department of Ecology does not have  
7 time for small changes.

8 Mr. Ericson stated that if the changes were made now, there would be two codes  
9 running depending on which area the applicant resides in.

10 Liliana Hansen: I was curious if the Shoreline Management Program has a realistic  
11 implementation time of a year as discussed.

12 Mr. Strong stated that the deadline is June 2020.

13 Mr. Ericson stated that this periodic update is supposed to be minor tweaks to the  
14 process, and is a smaller update with a narrow scope.

15 Commissioner Mocerri asked if the Planning Commissioners have the authority to  
16 request an update to the CAO in interim. The scoring system is not as good as it could  
17 be.

18 Mr. Strong stated that he would report it to Mr. Personius.

19 Jon Humphrey: A year to get this right is worth waiting for. Everything we are doing  
20 right now is critical. These decisions need to be done and made correctly.

21 The meeting was adjourned at 7:16 p.m.

22 Minutes prepared by Ashley Ubil.

23 WHATCOM COUNTY PLANNING COMMISSION ATTEST:

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Kelvin Barton, Chair

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Ashley Ubil, Secretary