

**SAN JUAN COUNTY (SJC), WASHINGTON
COUNTY COUNCIL
November 28, 2011
SPECIAL MEETING**

Monday, November 28, 2011 – Legislative Hearing Room, Friday Harbor, WA

9:00 AM SPECIAL MEETING

Council Vice-Chair Patty Miller called the special meeting to order at 9:00 am. Council Members present: Howard (Howie) Rosenfeld, Richard Fralick, Jamie Stephens and Rich Peterson; County Administrator Pete Rose, Clerk to the Council Ingrid Gabriel, Deputy Clerk Maureen See, and interested members of the public. Videoconferencing will be conducted at Lopez and Orcas Libraries, and the Council Hearing Room.

Lovel Pratt will be joining the meeting at the conclusion of the Canvass Board Meeting.

Public Conversation on Critical Area Ordinance

Ms. Miller welcomed Lisa Byers and thanked her for volunteering her time to be the facilitator. Nonconforming, reasonable use, and mitigation are the three topics chosen for the Critical Areas Workshop discussion.

Ms. Byers offered her outline for the workshop.

Ms. Pratt joined the meeting at 9:16 am.

Nonconforming Uses: Identification and Concerns

Comment by (in Friday Harbor): Tim Blanchard, Janet Alderton, Jack Cory, John Evans, Leonard Wood, Lovel Pratt, Rich Peterson, Frank Penwell, Jon Cain, Kyle Loring, Shireene Hale

from Orcas: Ralph Gutschmidt

from Lopez: Joe Greene

Nonconforming Uses: Concerns

1. The number of new nonconforming structures & uses created. Comments from Friday Harbor: Tim Blanchard, John Evans

from Lopez: Ed Kilduff

2. Potential to unnecessarily limit use due to application of buffers to previously developed areas

Comments from Friday Harbor: John Evans, Tim Blanchard, Gordy Peterson, Richard Fralick, Patty Miller, Shireene Hale, Kyle Loring, Rich Peterson

3. Unclear provisions regarding continuation of existing activities

Comments from Friday Harbor: Tim Blanchard, Richard Fralick, Kyle Loring, Patty Miller,

4. Criteria added for repair & replacement (all) a) requiring proof of no increase in nonconformity, b) proof of no additional adverse impacts to water quality, functions & values of critical areas

Comments from Friday Harbor: Tim Blanchard, Shireene Hale, Lovel Pratt, Bob Levinson

5. Timeline to replace is 48 months, too long? too short?, clarity about what % of building must be reconstructed to preserve rights

Comments from Friday Harbor: Kyle Loring, Tim Blanchard, Richard Fralick, Jon Cain, John Evans, Lovel Pratt, Gordy Peterson, Patty Miller

From Lopez: Ed Kilduff

From Orcas: Ralph Gutschmidt

6. Expansion or intensification of nonconforming use should be prohibited if it will increase impacts

Comments from Friday Harbor: Patty Miller, Kyle Loring

7. Not using low impact development as tool

Comments from Friday Harbor: Janet Alderton, Howie Rosenfeld,

8. How will property owner know if property is nonconforming

Comments from Friday Harbor: Leonard Wood, Patty Miller, Lovel Pratt, Rich Peterson, Alex Gavora, Tim Blanchard, Kyle Loring, Jane Cable, Janet Alderton, Howie Rosenfeld

From Lopez: Ed Kilduff

9. Impacts of using the term nonconforming

10. Clarify definition of nonconforming

Comments from Friday Harbor: Lovel Pratt, Rich Peterson, Patty Miller, Frank Penwell, Jack Cory,

11. Lack of encouragement to decrease over time

12. Definition of abandonment is unclear

Comment from Lopez: Joe Greene

From Friday Harbor: Tim Blanchard, Lovel Pratt, Howie Rosenfeld, Kyle Loring

Reasonable Use

1. Permits should follow a public process not just approval by the Director

Comments from Friday Harbor: Kyle Loring, Patty Miller, Lovel Pratt, Jamie Stephens, Howie Rosenfeld, John Evans, Jon Cain, Janet Alderton

2. Mitigation: a) some believe it should be required for all unavoidable impacts, b) others believe the County should bear the cost of any required mitigation to avoid a taking or undue burden, and that mitigation of buffer impacts should be treated differently than impacts to the critical area itself

Comments from Friday Harbor: Tim Blanchard, Kyle Loring, John Evans, Jack Cory, Patty Miller, Richard Fralick

11:35 RECESS FOR LUNCH

12:06 RECONVENE

2. b) others believe the County should bear the cost of any required mitigation to avoid a taking or undue burden, and that mitigation of buffer impacts should be treated differently than impacts to the critical area itself

Comments from Friday Harbor: Tim Blanchard, Lovel Pratt, Janet Alderton, Kyle Loring, John Evans, Rich Peterson, Patty Miller
From Lopez: Ed Kilduff

3. When development activity is allowed; should it be far away as possible from critical area, where property owner would have reasonable expectations based on regulations at the time

Comments from Friday Harbor: Tim Blanchard, Kyle Loring, Jamie Stephens, Janet Alderton,
From Lopez: Ed Kilduff

4. Scope of reasonable use area larger than other counties

Comments from Friday Harbor: Janet Alderton, John Evans, Patty Miller
From Orcas: Ralph Gutschmidt

5. Economic impact on property owner and County

Comment from Friday Harbor: John Evans, Rich Peterson

6. Ordinance to legally created building lots instead of parcels

7. New Ordinance has no required showing that CAO would require denial of reasonable use of parcel

Comments from Friday Harbor: Richard Fralick, Kyle Loring, Tim Blanchard, Jack Cory, Janet Alderton, Shireene Hale, John Evans

8. Whether no mitigation option will pass muster

Comments from Friday Harbor: Patty Miller, Gordy Peterson

9. How reasonable use is determined and by whom

Mitigation

1. Should include a mitigation sequence that first requires avoidance of impacts where possible and that result in full mitigation of impacts

Comments from Friday Harbor: Tina Whitman, Kyle Loring, Lovel Pratt, Shireene Hale, Richard Fralick

2. Must be like kind & benefit functions & values

Comments from Friday Harbor: Kyle Loring

3. Compensation must include monitoring and where necessary, adaptive management

Comments from Friday Harbor: Kyle Loring, Richard Fralick, Janet Alderton, Lovel Pratt, John Evans, Patty Miller, Rich Peterson

From Lopez: Ed Kilduff

From Orcas: Kim Secunda

4. Should not allow for the removal of unauthorized activity in favor of a newly unauthorized impact

Comments from Friday Harbor: Kyle Loring, Tina Whitman, Patty Miller, Lovel Pratt, Richard Fralick, Dave Cable, Howie Rosenfeld

5. Requires property owners to allow ongoing inspections

Comments from Friday Harbor: Tim Blanchard, Gordy Peterson, Janet Alderton
From Lopez: George Lawson

6. Requires mitigation of all impacts including those that have not been shown to result in a “net loss” of critical areas functions & values

Comments from Friday Harbor: Tim Blanchard, Kyle Loring

7. Sometimes mitigation is not possible

Comment from Friday Harbor: Tina Whitman, Jack Cory, Richard Fralick, Patty Miller

Public comment/evaluation: Janet Alderton, Jack Cory, John Evans, Rich Peterson

From Lopez: George Lawson

1:57 PM

ADJOURN

**COUNTY COUNCIL
SAN JUAN COUNTY, WASHINGTON**

These Minutes were approved and signed on December 6, 2011. The original document is retained in the Council’s permanent proceedings file. Attest: Ingrid Gabriel, Council Clerk.